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TABLE SHOWING EFFECT OF PARLIAMENTARY LEGISLATION  
OF 1958

Part I.—Central Acts amended, repealed or otherwise affected.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 1958 Act by which affected
1	2	3	4	5
1838	19	Coasting-vessels Act	Repealed (when notified) in so far as it applies to sea going ships fitted with mechanical means of propulsion and to sailing vessels.	44, s. 461 (I) and Schedule—Part I.
1841	10	Indian Registration of Ships Act.	Repealed (when notified).	44, s. 461 (I) and Schedule—Part I.
1850	11	Indian Registration of Ships Act. (1841) Amendment Act.	Repealed (when notified).	44, s. 461 (I) and Schedule—Part I.
1860	45	Indian Penal Code.	S. 21 amended. Ss. 478 and 480 omitted (when notified). Ss. 482, 483 and 486 amended (when notified). Heading to Ch. XVIII and heading above s. 478 amended (when notified). S. 485 substituted (when notified).	2, s. 2. 43, s. 135 and Schedule. <i>Ibid.</i> <i>Ibid.</i> <i>Ibid.</i>
1873	10	Indian Oaths Act	S. 16 omitted	16, s. 2.
1877	1	Specific Relief Act	S. 54 amended (when notified).	43, s. 135 and Schedule.

1	2	3	4
1878	8	Sea Customs Act	S. 18 amended (when notified). S. 195B inserted 43, s. 135 and Schedule. 39, s. 2.
1879	6	Bombay Port Trust Act.	S. 42KK inserted 13, s. 2.
1888	4	Indian Reserve Forces Act.	Ss. 7 and 8 inserted 3, s. 2.
1889	4	Indian Merchandise Marks Act.	Repealed (when notified). 43, s. 136.
1890	3	Calcutta Port Act	S. 27KK inserted 13, s. 3.
1898	5	Code of Criminal Procedure.	S. 93A omitted Chapter VII-A (s. 105A) inserted. Schedule II amended (when notified). 43, s. 135 and Schedule.
1898	6	Indian Post Office Act	S. 19A inserted Ss. 23 and 61 amended 7, s. 2. <i>Ibid.</i> , ss. 3 and 4.
1899	2	Indian Stamp Act	SS. 11, 31, 32, 34, 35, 40, 41, 47, 53, 54, 69, 74 and 78 amended. Ss. 54A and 77A inserted. First Schedule amended. 19, ss. 2 to 8, 10 and 12. <i>Ibid.</i> , ss. 9 and 11. <i>Ibid.</i> , s. 13.
1904	7	Ancient Monuments Preservation Act.	Shall cease to have effect (when notified) in relation to ancient and historical monuments and archaeological sites and remains declared to be of national importance. 24, s. 39.
1905	2	Madras Port Trust Act	S. 72B inserted 13, s. 4.

1	2	3	4	5
1915	16	Banaras Hindu University Act.	S. 9 substituted S. 12A inserted Ss. 17, 18 and 19 amended Statutes 4, 6, 12, 18, 20, 28, 35, 36 and 42 amended. Statutes 14, 17, 29 and 30 substituted. Statute 16 omitted	34, s. 2. <i>Ibid.</i> , s. 3. <i>Ibid.</i> , ss. 4, 5 and 6. <i>Ibid.</i> , s. 7 <i>Ibid.</i> <i>Ibid.</i>
1919	12	Poisons Act.	Ss. 1, 3 and 6 amended.	47, ss. 2 and 3.
1922	11	Indian Income-tax Act.	Ss. 4, 4A, 7, 9, 10, 18, 23A, 35 and 59 amended. S. 44 substituted	11, ss. 3 to 10 and 12. <i>Ibid.</i> , s. 11.
1923	21	Indian Merchant Shipping Act.	Repealed (when notified)	44, s. 461(1) and Schedule—Part I.
1934	32	Indian Tariff Act	First and Second Schedules amended First Schedule amended. Second Schedule amended.	11, s. 15 and Schedule II. 27, s. 4, 52, s. 2 45, s. 2.
1943	5	Trade Marks Act	Repealed (when notified).	43, s. 136.
1941	5	Assam Rifles Act	S. 8 amended	48, s. 2.
1944	1	Central Excise and Salt Act.	First Schedule amended.	11, s. 17 45, s. 3
1946	21	Merchant Seamen (Littigation) Act.	Repealed (when notified).	44, s. 461(1) and Schedule—Part I.
1947	2	Prevention of Corruption Act.	S. 5 amended	2, s. 3.
1947	7	Foreign Exchange Regulation Act.	S. 13A substituted	53, s. 2.

I	2	3	4	5
1956	74	Central Sales Tax Act.	S. 1 amended Ss. 2, 6, 7, 8, 10, 13 and 14 amended. Ss. 9 and 15 substituted. S. 10A inserted	S. 1 amended . . . . . 31, ss. 2 to 5, 7, 9 and 10. <i>Ibid.</i> , ss. 6 and 11. <i>Ibid.</i> , s. 8.
1956	102	Indian Medical Council Act.	S. 34 substituted (retrospectively).	36, s. 2.
1957	27	Wealth-tax Act	Ss. 2, 5 and 6 amended	11, s. 14.
1957	58	Additional Duties of Excise (Goods of Special Importance) Act.	S. 7 repealed	31, s. 12.
1957	67	Mines and Minerals (Regulation and Development) Act.	S. 30A inserted (retrospectively).	15, s. 2.

*Part II.—Central Ordinances.*

Year	No. of Ordinance	Short title of Ordinance	How affected	No. and section of 1958 Act by which affected
I	2	3	4	5
1958	1	Armed Forces (Assam and Manipur) Special Powers Ordinance.	Repealed . . . . .	28, s. 7.
1958	2	Code of Criminal Procedure (Amendment) Ordinance.	Repealed . . . . .	26, s. 4.
1958	3	Working Journalists (Fixation of Rates of Wages) Ordinance.	Repealed . . . . .	29, s. 14.
1958	4	Banaras Hindu University (Amendment) Ordinance.	Repealed . . . . .	34, s. 9.
1958	5	Sugar Export Promotion Ordinance.	Repealed . . . . .	30, s. 14.



1	2	3	4	5
1958	6	Mineral Oils (Additional Duties of Excise and Customs) Ordinance.	Repealed (w.e.f. 20-5-1958).	27, s. 6.
1958	7	Himachal Pradesh Legislative Assembly (Constitution and Proceedings) Validation Ordinance.	Repealed . . . . .	56, s. 5.

*Part III.—United Kingdom Enactments in its application to India.*

Year of Enactment	No. of Enactment	Short title of Enactment	How affected	No. and section of 1958 Act by which affected
1	2	3	4	5
1823	4 Geo. 4, c. 80	Lascars Act	Repealed (when notified).	44, s. 461(2) and Schedule—Part II
1894	57 & 58 Vict., c. 60	Merchant Shipping Act.	Repealed (when notified).	<i>Ibid.</i>
1897	60 & 61 Vict., c. 59	Merchant Shipping Act.	Repealed (when notified).	<i>Ibid.</i>
1898	61 & 62 Vict., c. 14	Merchant Shipping (Liability of Ship-owners) Act.	Repealed (when notified).	<i>Ibid.</i>
1898	61 & 62 Vict., c. 44	Merchant Shipping (Mercantile Marine Fund) Act.	Repealed (when notified).	<i>Ibid.</i>
1900	63 & 64 Vict., c. 32	Merchant Shipping (Liability of Ship-owners and Others) Act.	Repealed (when notified).	<i>Ibid.</i>
1906	6 Edw. 7, c. 48	Merchant Shipping Act.	Repealed (when notified).	<i>Ibid.</i>
1907	7 Edw. 7, c. 52	Merchant Shipping Act.	Repealed (when notified).	<i>Ibid.</i>

x Effect of Parliamentary Legislation of 1958.

1	2	3	4	5
1956	97	Delhi Tenants (Temporary Protection) Act.	S. 1. amended (when notified).	59, s. 53.
1958	32	Rajasthan Weights and Measures (Enforcement) Act.	Will be extended to Delhi by notification under s. 2 of Act 30 of 1950.	57, s. 3.
MANIPUR				
1947	..	Manipur Co-operative Societies Act.	Repealed by Assam Act 1 of 1950 when extended by notification under s. 2 of Act 30 of 1950.	35, s. 2.
TRIPURA				
1958 T.E.	..	Tripura Co-operative Societies Act.	Repealed by Bombay Act 7 of 1925 when extended by notification under s. 2 of Act 30 of 1950.	35, s. 3.
		Tripura Kushid Niyamak Bidhi.	Repealed by Bombay Act 31 of 1947 when extended by notification under s. 2 of Act 30 of 1950.	35, s. 3.

THE CRIMINAL LAW AMENDMENT ACT, 1958.

No. 2 OF 1958

[27th February, 1958]

An Act further to amend the Indian Penal Code, the Prevention of Corruption Act, 1947, and the Criminal Law Amendment Act, 1952.

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

Short  
title.

1. This Act may be called the Criminal Law Amendment Act, 1958.

Amend-  
ment  
of sec-  
tion 21,  
Act 45 of  
1860.

2. In section 21 of the Indian Penal Code,—

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

“*Twelfth*.—Every officer in the service or pay of a local authority or of a corporation engaged in any trade or industry which is established by a Central, Provincial or State Act or of a Government company as defined in section 617 of the Companies Act, 1956.”;

1 of 1956.

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

*Explanation 4*.—The expression, “corporation engaged in any trade or industry” includes a banking, insurance or financial corporation, a river valley corporation and a corporation for supplying power, light or water to the public.’

Amend-  
ment  
of Act 2  
of 1947.

3. In the Prevention of Corruption Act, 1947,—

(a) in section 5, for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) Any public servant who commits criminal misconduct in the discharge of his duty shall be punishable with imprisonment for a term which shall not be less than one

Rep. by Act 58 of 1950, 29 sch 1 (wef. 26/12/60)

THE REQUISITIONING AND ACQUISITION OF  
IMMOVABLE PROPERTY (AMENDMENT) ACT, 1958

No. 1 OF 1958

[27th February, 1958]

An Act further to amend the Requisitioning and Acquisition of  
Immovable Property Act, 1952.

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

1. This Act may be called the Requisitioning and Acquisition of Short title.  
Immovable Property (Amendment) Act, 1958.

2. In section 1 of the Requisitioning and Acquisition of Immov- Amendment  
able Property Act, 1952, in sub-section (3), for the word "six". the of section 1.  
30 of 1952. word "twelve" shall be substituted.

year but which may extend to seven years and shall also be liable to fine:

Provided that the court may, for any special reasons recorded in writing, impose a sentence of imprisonment of less than one year.

(2A) Where a sentence of fine is imposed under sub-section (2), the court, in fixing the amount of fine, shall take into consideration the amount or value of the property which the accused person has obtained by committing the offence of criminal misconduct or where the conviction is based on the presumption under sub-section (3), the pecuniary resources or property referred to in that sub-section for which the accused person is unable to account satisfactorily.”;

(b) after section 7, the following section shall be inserted, namely:—

“8. Notwithstanding anything contained in any law for the time being in force, a statement made by a person in any proceeding against a public servant for an offence under section 161 or section 165 of the Indian Penal Code or under sub-section (2) of section 5 of this Act, that he offered or agreed to offer any gratification (other than legal remuneration) or any valuable thing to the public servant, shall not subject such person to a prosecution under section 165A of the said Code.”.

State-  
ment by  
bribe  
giver  
not to  
subject  
him to  
prosecu-  
tion.

45 of 1860.

4. In the Criminal Law Amendment Act, 1952, in section 8, after sub-section (3), the following sub-section shall be inserted, namely:—

Amend-  
ment  
of sec-  
tion 8,  
Act 46 of  
1952.

“(3A) In particular, and without prejudice to the generality of the provisions contained in sub-section (3), the provisions of section 350 of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to the proceedings before a Special Judge, and for the purposes of the said provisions a Special Judge shall be deemed to be a magistrate.”.

5 of 1898.

Rep. by Act 58 of 1958, s. 24 Sch 1 (w.e.f. 26.12.60)

## THE INDIAN RESERVE FORCES (AMENDMENT)

ACT, 1958

No. 3 OF 1958

[8th March, 1958]

An Act further to amend the Indian Reserve Forces Act, 1888.

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

Short title.

1. This Act may be called the Indian Reserve Forces (Amendment) Act, 1958.

Insertion of new sections 7 and 8 in Act 4 of 1888.

Reinstatement in civil employ of persons belonging to Reserve Forces on termination of period of training, muster or army service.

2. After section 6 of the Indian Reserve Forces Act, 1888, the following sections shall be inserted, namely:—

4 of 1888.

“7. (1) If a person belonging to the Indian Reserve Forces is, during the period of his employment under an employer, called up for training, muster or army service in pursuance of his liability under any rule or order under this Act, it shall be the duty of every such employer to reinstate the person in his employment on the termination of the period of his training, muster or army service in an occupation and under conditions not less favourable to him than those which would have been applicable to him had his employment not been so interrupted :

Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person, or if for any reason reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter to the authority prescribed in this behalf by rules made under this Act, and that authority shall, after considering all matters which may be put before it and after making such further inquiry into the matter as may be prescribed in the said rules, pass an order—

(a) exempting the employer from the provisions of this section, or

(b) requiring the employer to re-employ such person on such terms as the authority thinks suitable, or

(c) requiring the employer to pay to such person by way of compensation for failure or inability to re-employ, a sum not exceeding an amount equal to six months' remun-

eration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to obey the order of any such authority as is referred to in the proviso to sub-section (1), he shall be punishable with fine which may extend to one thousand rupees, and the court by which an employer is convicted under this section shall order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.

(3) In any proceeding under this section it shall be a defence for an employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of the period of his training, muster or army service.

(4) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who, before such person is actually called up for training, muster or army service, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved, if the termination takes place after the issue of orders calling him up for training, muster or army service under this Act.

8. When any person belonging to the Indian Reserve Forces and called up for training, muster or army service in pursuance of his liability under any rule or order under this Act has any rights under any provident fund or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue, so long as he is engaged in training, muster or army service and if he is reinstated, until such reinstatement under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed by rules made under this Act."

Preservation  
of certain  
rights of  
persons be-  
longing to  
Reserve For-  
ces when  
called up for  
training,  
muster or  
army service.

# THE APPROPRIATION ACT, 1958

No. 4 OF 1958

[13th March, 1958]

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 1957-58.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

- Short title.      1. This Act may be called the Appropriation Act, 1958.
- Issue of Rs. 492,19,78,000 out of the Consolidated Fund of India for the year 1957-58.      2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of four hundred and ninety-two crores, nineteen lakhs and seventy-eight thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1957-58, in respect of the services specified in column 2 of the Schedule.
- Appropriation.      3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

## THE SCHEDULE

(See sections 2 and 3)

I	2	3			
		Sums not exceeding			
		No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund
			Rs.	Rs.	Rs.
1	Ministry of Commerce and Industry		4,25,000	...	4,25,000
2	Industries		1,16,06,000	...	1,16,06,000
3	Salt		4,29,000	54,000	4,83,000
5	Miscellaneous Departments and Expenditure under the Ministry of Commerce and Industry		13,38,000	...	13,38,000



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.
8	Ministry of Defence	1,61,000	...	1,61,000
9	Defence Services—Effective Army	7,72,56,000	35,000 <sup>p</sup>	7,72,91,000
11	Defence Services—Effective Air Force	8,34,89,000	...	8,34,89,000
12	Defence Services—Non-Effective Charges	48,64,000	...	48,64,000
24	External Affairs	7,40,000	...	7,40,000
26	Miscellaneous Expenditure under the Ministry of External Affairs	71,000	...	71,000
28	Customs	...	1,000	1,000
29	Union Excise Duties	...	11,69,12,000	11,69,12,000
30	Taxes on Income including Corporation tax and Estate Duty	...	22,000	22,000
32	Stamps	40,64,000	...	40,64,000
34	Currency	16,39,000	...	16,39,000
35	Mint	76,03,000	...	76,03,000
37	Superannuation Allowances and Pensions	25,00,000	1,50,000	26,50,000
41	Pre-partition Payments	19,42,000	1,21,000	20,63,000
	CHARGED.—Interest on Debt and other obligations and re- duction or avoidance of Debt.	...	2,50,00,000	2,50,00,000
46	Miscellaneous Departments and Other Expenditure under the Ministry of Food and Agri- culture	3,52,17,000	...	3,52,17,000
55	Census	2,70,000	...	2,70,000
57	Delhi	...	78,000	78,000
63	Miscellaneous Departments and Expenditure under the Ministry of Home Affairs.	1,000	...	1,000
67	Ministry of Irrigation and Power	2,48,000	...	2,48,000
77	Expenditure on Displaced Per- sons	...	6,000	6,000

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.
79	Mines . . . . .	10,44,000	...	10,44,000
81	Miscellaneous Departments and Other Expenditure under the Ministry of Steel, Mines and Fuel . . . . .	12,82,74,000	...	12,82,74,000
83	Indian Posts and Telegraphs Department (including Work- ing Expenses) . . . . .	1,20,00,000	2,29,000	1,22,29,000
90	Communications (including National Highways) . . . . .	9,41,000	...	9,41,000
93	Supplies . . . . .	9,66,000	...	9,66,000
94	Other Civil Works . . . . .	3,38,70,000	2,75,000	3,41,45,000
95	Stationery and Printing . . . . .	53,00,000	...	53,00,000
106	Defence Capital Outlay . . . . .	2,91,94,000	3,12,000	2,95,06,000
108	Capital Outlay of the Ministry of External Affairs . . . . .	16,64,000	...	16,64,000
112	Commuted Value of Pensions . . . . .	3,16,000	...	3,16,000
115	Loans and Advances by the Central Government . . . . .	...	35,00,00,000	35,00,00,000
	CHARGED.— <i>Repayment of Debt</i> . . . . .	...	3,56,04,95,000	3,56,04,95,000
117	Purchase of Foodgrains . . . . .	38,48,00,000	...	38,48,00,000
118	Other Capital Outlay of the Ministry of Food and Agri- culture . . . . .	...	1,000	1,000
123	Other Capital Outlay of the Ministry of Irrigation and Power . . . . .	1,06,00,000	...	1,06,00,000
125	Capital Outlay of the Ministry of Rehabilitation . . . . .	1,000	...	1,000
126	Capital Outlay of the Ministry of Steel, Mines and Fuel . . . . .	1,000	...	1,000
127	Capital Outlay on Indian Posts and Telegraphs (Not met from Revenue) . . . . .	1,00,00,000	...	1,00,00,000
130	Capital Outlay on Roads . . . . .	1,50,00,000	...	1,50,00,000
133	Capital Outlay on Buildings . . . . .	...	4,53,000	4,53,000
	TOTAL . . . . .	86,78,34,000	405,41,44,000	492,19,78,000

THE CENTRAL SALES TAX (AMENDMENT) ACT, 1958.

No. 5 OF 1958

[13th March, 1958]

An Act further to amend the Central Sales Tax Act, 1956.

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

1. This Act may be called the Central Sales Tax (Amendment) Act, 1958. Short title.

74 of 1956 2. In section 1 of the Central Sales Tax Act, 1956, in sub-section (2), the words "except the State of Jammu and Kashmir" shall be omitted. Amendment of section 1.

# THE APPROPRIATION (RAILWAYS) ACT, 1958

No. 6 OF 1958

[18th March, 1958]

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 1957-58 for the purposes of Railways.

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

Short title.      1. This Act may be called the Appropriation (Railways) Act, 1958.

Issue of Rs. 45,04,10,000 out of the Consolidated Fund of India for the financial year 1957-58.      2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of forty-five crores, four lakhs and ten thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1957-58, in respect of the services relating to railways specified in column 2 of the Schedule.

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

## THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board	7,79,000	..	7,79,000
2	Miscellaneous Expenditure	1,000	..	1,000
4	Working Expenses—Administra- tion	1,03,91,000	..	1,03,91,000
5	Working Expenses—Repairs and Maintenance	6,75,28,000	5,66,000	6,80,94,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
6	Working Expenses—Operation Staff . . . . .	2,19,87,000	..	2,19,87,000
7	Working Expenses—Operating (Fuel) . . . . .	3,09,61,000	..	3,09,61,000
8	Working Expenses—Operation other than Staff and Fuel . . . . .	1,19,82,000	..	1,19,82,000
9	Working Expenses—Miscellaneous Expenses . . . . .	2,12,55,000	..	2,12,55,000
10	Working Expenses—Labour Welfare . . . . .	19,58,000	..	19,58,000
12	Dividend payable to General Revenues . . . . .	45,46,000	..	45,46,000
13	Open Line Works (Revenue) Labour Welfare . . . . .	41,67,000	..	41,67,000
15	Construction of New Lines—Capital and Depreciation Reserve Fund . . . . .	2,20,43,000	..	2,20,43,000
16	Open Line Works—Additions . . . . .	10,60,37,000	5,000	10,60,42,000
17	Open Line Works—Replacements . . . . .	14,62,04,000	..	14,62,04,000
	TOTAL . . . . .	44,98,39,000	5,71,000	45,04,10,000

THE INDIAN POST OFFICE (AMENDMENT) ACT, 1958

No. 7 OF 1958

[18th March, 1958]

An Act further to amend the Indian Post Office Act, 1898.

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

Short title. 1. This Act may be called the Indian Post Office (Amendment) Act, 1958.

Insertion of new section 19 A. 2. After section 19 of the Indian Post Office Act, 1898 (hereinafter referred to as the principal Act), the following section shall be inserted, namely:—

Transmission by post of tickets, proposals, etc., relating to unauthorised lotteries prohibited.

“19A. No person shall send by post—

(a) any ticket, proposal or advertisement relating to a lottery; or

(b) any other matter descriptive of, or otherwise relating to, a lottery, which is calculated to act as an inducement to persons to participate in that lottery.

*Explanation.*—In this section, “lottery” does not include a lottery organised or authorised by the Government.”

Amendment of section 23. 3. In clause (a) of sub-section (3) of section 23 of the principal Act, after the word and figures “section 19”, the words, figures, and letter “or section 19A” shall be inserted.

Amendment of section 61. 4. In section 61 of the principal Act, after the word and figures “section 19”, in both the places where they occur, the words, figures and letter “or section 19A” shall be inserted.

# THE APPROPRIATION (VOTE ON ACCOUNT) ACT, 1958

No. 8 OF 1958

[19th March, 1958]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of India for the service of a part of the financial year 1958-59.

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

1. This Act may be called the Appropriation<sup>o</sup> (Vote on Account) Short title Act, 1958.

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 seven hundred and fifteen crores, fifty-two lakhs and eighty-one thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1958-59.

Withdrawal of Rs. 715,52,81,000 \* from and out of the Consolidated Fund of India for the financial year 1958-59.

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

Appropriation.

## THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Ministry of Commerce and Industry .	5,54,000	...	5,54,000
2	Industries . . . . .	2,24,25,000	...	2,24,25,000
3	Salt . . . . .	13,17,000	42,000	13,59,000
4	Commercial Intelligence and Statistics.	6,65,000	...	6,65,000
5	Miscellaneous Departments and Expenditure under the Ministry of Commerce and Industry .	15,89,000	...	15,89,000

1	2	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
No. of Vote	Services and purposes	Rs.	Rs.	Rs.
6	Ministry of Community Development.	1,83,000	...	1,83,000
7	Community Development Projects and National Extension Service . . . . .	1,09,44,000	...	1,09,44,000
8	Ministry of Defence . . . . .	3,14,000	...	3,14,000
9	Defence Services—Effective—Army . . . . .	14,84,02,000	21,000	14,84,23,000
10	Defence Services—Effective—Navy . . . . .	1,38,76,000	4,000	1,38,80,000
11	Defence Services—Effective—Air Force . . . . .	7,37,85,000	4,000	7,37,89,000
12	Defence Services—Non-Effective Charges . . . . .	1,14,21,000	7,29,000	1,21,50,000
13	Ministry of Education and Scientific Research . . . . .	5,74,000	...	5,74,000
14	Archaeology . . . . .	9,14,000	...	9,14,000
15	Survey of India . . . . .	14,26,000	...	14,26,000
16	Botanical Survey . . . . .	1,04,000	...	1,04,000
17	Zoological Survey . . . . .	99,000	...	99,000
18	Scientific Research . . . . .	53,25,000	...	53,25,000
19	Other Scientific Departments . . . . .	4,72,000	...	4,72,000
20	Education . . . . .	2,11,42,000	...	2,11,42,000
21	Miscellaneous Departments and Expenditure under the Ministry of Education and Scientific Research . . . . .	20,16,000	...	20,16,000
22	Tribal Areas . . . . .	66,92,000	...	66,92,000
23	Naga Hills-Tuensang Area . . . . .	30,38,000	...	30,38,000
24	External Affairs . . . . .	73,23,000	...	73,23,000
25	State of Pondicherry . . . . .	24,91,000	3,000	24,94,000
26	Miscellaneous Expenditure under the Ministry of External Affairs . . . . .	34,000	...	34,000
27	Ministry of Finance . . . . .	13,23,000	...	13,23,000
28	Customs . . . . .	34,69,000	1,000	34,70,000
29	Union Excise Duties . . . . .	65,57,000	5,74,78,000	6,40,35,000
30	Taxes on Income including Corporation Tax, etc. . . . .	45,12,000	10,000	45,22,000



1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
31	Opium . . . . .	2,07,84,000	..	2,07,84,000
32	Stamps . . . . .	19,50,000	71,000	20,21,000
33	Audit . . . . .	83,55,000	1,71,000	85,26,000
34	Currency . . . . .	30,84,000	93,000	31,77,000
35	Mint . . . . .	39,76,000	..	39,76,000
36	Territorial and Political Pensions . . . . .	1,84,000	..	1,84,000
37	Superannuation Allowances and Pensions . . . . .	58,50,000	5,56,000	64,06,000
38	Miscellaneous Departments and Other Expenditure under the Ministry of Finance . . . . .	2,59,12,000	1,000	2,59,13,000
39	Planning Commission . . . . .	17,50,000	..	17,50,000
40	Miscellaneous Adjustments between the Union and State Governments . . . . .	55,000	..	55,000
41	Pre-partition Payments . . . . .	2,87,000	24,000	3,11,000
	CHARGED.—Interest on Debt and other obligations and reduction or avoidance of Debt . . . . .	..	11,61,91,000	11,61,91,000
	CHARGED.—Grants-in-aid to States . . . . .	..	11,74,17,000	11,74,17,000
42	Ministry of Food and Agriculture . . . . .	6,13,000	..	6,13,000
43	Forest . . . . .	21,36,000	..	21,36,000
44	Agriculture . . . . .	1,31,04,000	1,000	1,31,05,000
45	Civil Veterinary Services . . . . .	12,35,000	..	12,35,000
46	Miscellaneous Departments and Other Expenditure under the Ministry of Food and Agriculture . . . . .	1,15,07,000	..	1,15,07,000
47	Ministry of Health . . . . .	1,14,000	..	1,14,000
48	Medical Services . . . . .	43,23,000	..	43,23,000
49	Public Health . . . . .	1,17,25,000	..	1,17,25,000
50	Miscellaneous Departments and Expenditure under the Ministry of Health . . . . .	7,30,000	..	7,30,000
51	Ministry of Home Affairs . . . . .	22,80,000	..	22,80,000
52	Cabinet . . . . .	2,94,000	..	2,94,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
53	Zonal Councils . . . . .	37,000	..	37,000
54	Administration of Justice . . . . .	19,000	1,24,000	1,43,000
55	Police . . . . .	41,14,000	..	41,14,000
56	Census . . . . .	69,000	..	69,000
57	Statistics . . . . .	15,09,000	..	15,09,000
58	Privy Purses and Allowances of Indian Rulers . . . . .	1,23,000	1,35,46,000	1,36,69,000
59	Delhi . . . . .	64,44,000	4,000	64,48,000
60	Himachal Pradesh . . . . .	38,53,000	15,000	38,68,000
61	Andaman and Nicobar Islands . . . . .	23,16,000	..	23,16,000
62	Manipur . . . . .	18,06,000	..	18,06,000
63	Tripura . . . . .	27,39,000	4,000	27,43,000
64	Laccadive, Minicoy and Amindivi Islands . . . . .	1,64,000	..	1,64,000
65	Miscellaneous Departments and Expenditure under the Ministry of Home Affairs . . . . .	72,98,000	..	72,98,000
66	Ministry of Information and Broadcasting . . . . .	1,12,000	..	1,12,000
67	Broadcasting . . . . .	33,42,000	..	33,42,000
68	Miscellaneous Departments and Expenditure under the Ministry of Information and Broadcasting . . . . .	27,84,000	..	27,84,000
69	Ministry of Irrigation and Power . . . . .	1,64,000	..	1,64,000
70	Multi-purpose River Schemes . . . . .	10,67,000	..	10,67,000
71	Miscellaneous Departments and Other Expenditure under the Ministry of Irrigation and Power . . . . .	8,76,000	..	8,76,000
72	Ministry of Labour and Employment . . . . .	1,46,000	..	1,46,000
73	Chief Inspector of Mines . . . . .	1,92,000	..	1,92,000
74	Miscellaneous Departments and Other Expenditure under the Ministry of Labour and Employment . . . . .	73,35,000	..	73,35,000
75	Ministry of Law . . . . .	1,62,000	..	1,62,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
76	Elections . . . . .	15,12,000	..	15,12,000
77	Miscellaneous Expenditure under the Ministry of Law . . . . .	45,000	..	45,000
78	Ministry of Rehabilitation . . . . .	3,37,000	..	3,37,000
79	Expenditure on Displaced Persons and Minorities . . . . .	1,70,69,000	..	1,70,69,000
80	Ministry of Steel, Mines and Fuel . . . . .	2,79,000	..	2,79,000
81	Geological Survey . . . . .	10,99,000	..	10,99,000
82	Exploration of Oil and Natural Gas . . . . .	18,20,000	..	18,20,000
83	Miscellaneous Departments and Other Expenditure under the Ministry of Steel, Mines and Fuel . . . . .	4,13,54,000	..	4,13,54,000
84	Ministry of Transport and Communi- cations . . . . .	6,38,000	..	6,38,000
85	Mercantile Marine Department . . . . .	5,17,000	..	5,17,000
86	Light-houses and Light-ships . . . . .	11,58,000	..	11,58,000
87	Central Road Fund . . . . .	35,75,000	..	35,75,000
88	Communications (including National Highways) . . . . .	50,31,000	..	50,31,000
89	Indian Posts and Telegraphs Depart- ment (including Working Expenses)	5,24,75,000	26,43,000	5,51,18,000
90	Meteorology . . . . .	13,45,000	..	13,45,000
91	Overseas Communications Service . . . . .	9,73,000	58,000	10,31,000
92	Aviation . . . . .	31,63,000	..	31,63,000
93	Miscellaneous Departments and Other Expenditure under the Ministry of Transport and Communications . . . . .	11,56,000	..	11,56,000
94	Ministry of Works, Housing and Supply . . . . .	4,73,000	..	4,73,000
95	Supplies . . . . .	22,66,000	..	22,66,000
96	Other Civil Works . . . . .	2,09,36,000	3,46,000	2,12,82,000
97	Stationery and Printing . . . . .	59,97,000	..	59,97,000
98	Miscellaneous Departments and Ex- penditure under the Ministry of Works, Housing and Supply . . . . .	7,38,000	..	7,38,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	₹.	Rs.
99	Department of Atomic Energy . . . . .	76,000	..	76,000
100	Atomic Energy Research . . . . .	27,57,000	..	27,57,000
101	Department of Parliamentary Affairs . . . . .	19,000	..	19,000
102	Lok Sabha . . . . .	12,88,000	8,000	12,96,000
103	Miscellaneous Expenditure under the Lok Sabha . . . . .	34,000	..	34,000
104	Rajya Sabha . . . . .	4,16,000	8,000	4,24,000
	CHARGED.— <i>Staff, Household and allowances of the President</i> . . . . .	..	1,53,000	1,53,000
105	Secretariat of the Vice-President . . . . .	5,000	..	5,000
	CHARGED.— <i>Union Public Service Commission</i> . . . . .	..	3,50,000	3,50,000
106	Capital Outlay of the Ministry of Commerce and Industry . . . . .	1,07,82,000	..	1,07,82,000
107	Capital Outlay of the Ministry of Community Development . . . . .	19,45,000	..	19,45,000
108	Defence Capital Outlay . . . . .	2,49,46,000	54,000	2,50,00,000
109	Capital Outlay of the Ministry of Education and Scientific Research . . . . .	18,23,000	..	18,23,000
110	Capital Outlay of the Ministry of External Affairs . . . . .	3,87,000	..	3,87,000
111	Capital Outlay on India Security Press . . . . .	92,000	..	92,000
112	Capital Outlay on Currency and Coinage . . . . .	24,22,000	..	24,22,000
113	Capital Outlay on Mints . . . . .	3,85,000	..	3,85,000
114	Commutated Value of Pensions . . . . .	3,82,000	8,000	3,90,000
115	Payments to Retrenched Personnel . . . . .	1,000	..	1,000
116	Other Capital Outlay of the Ministry of Finance . . . . .	7,48,82,000	..	7,48,82,000
117	Loans and Advances by the Cen- tral Government . . . . .	11,50,15,000	28,70,94,000	40,21,09,000
	CHARGED.— <i>Repayment of Debt</i> . . . . .	..	522,00,00,000	522,00,00,000
118	Capital Outlay on Forests . . . . .	79,000	..	79,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
119	Purchase of Foodgrains . . . . .	14,00,00,000	27,000	14,00,27,000
120	Other Capital Outlay of the Ministry of Food and Agri- culture . . . . .	2,51,02,000	..	2,51,02,000
121	Capital Outlay of the Ministry of Health . . . . .	81,62,000	..	81,62,000
122	Capital Outlay of the Ministry of Home Affairs . . . . .	9,38,000	..	9,38,000
123	Capital Outlay on Broadcasting . . . . .	17,97,000	..	17,97,000
124	Capital Outlay on Multi-purpose River Schemes . . . . .	35,17,000	..	35,17,000
125	Other Capital Outlay of the Mi- nistry of Irrigation and Power . . . . .	46,54,000	..	46,54,000
126	Capital Outlay of the Ministry of Labour and Employment . . . . .	96,000	..	96,000
127	Capital Outlay of the Ministry of Rehabilitation . . . . .	1,75,00,000	..	1,75,00,000
128	Capital Outlay of the Ministry of Steel, Mines and Fuel . . . . .	14,40,99,000	..	14,40,99,000
129	Capital Outlay on Ports . . . . .	33,75,000	..	33,75,000
130	Capital Outlay on Roads . . . . .	1,25,00,000	..	1,25,00,000
131	Capital Outlay on Indian Posts and Telegraphs (not met from Revenue) . . . . .	2,50,77,000	..	2,50,77,000
132	Capital Outlay on Civil Aviation . . . . .	26,97,000	42,000	27,39,000
133	Other Capital Outlay of the Ministry of Transport and Communications . . . . .	93,93,000	..	93,93,000
134	Delhi Capital Outlay . . . . .	52,98,000	74,000	53,72,000
135	Capital Outlay on Buildings . . . . .	47,68,000	47,000	48,15,000
136	Other Capital Outlay of the Ministry of Works, Housing and Supply . . . . .	29,64,000	..	29,64,000
137	Capital Outlay of the Depart- ment of Atomic Energy . . . . .	43,25,000	..	43,25,000
	GRAND TOTAL . . . . .	133,78,59,000	581,74,22,000	715,52,81,000

THE CONTROL OF SHIPPING (CONTINUANCE)

ACT, 1958

No. 9 OF 1958

[19th March, 1958]

AN Act to continue the Control of Shipping Act, 1947, for a further period.

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

Short title

1. This Act may be called the Control of Shipping (Continuance) Act, 1958.

Amendment  
of section 1

2. In sub-section (3) of section 1 of the Control of Shipping Act, 1947, for the figures "1958", the figures "1960" shall be substituted. <sup>26 of 1947</sup>

THE APPROPRIATION (RAILWAYS) No. 2 ACT, 1958

No. 10 OF 1958

[20th March, 1958]

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 1958-59 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) No. 2 Short title Act, 1958.

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 twenty-three crores, seventy-three lakhs and twenty-five thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1958-59, in respect of the services relating to railways specified in column 2 of the Schedule.

Issue of Rs. 1,023,73,25,000 out of the Consolidated Fund of India for the financial year 1958-59.

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

THE SCHEDULE

(See sections 2 and 3)

I No. of Vote	2 Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board . . . . .	81,19,000	..	81,19,000
2	Miscellaneous Expenditure . . . . .	1,28,26,000	3,00,000	1,31,26,000
3	Payments to Worked Lines and others . . . . .	31,39,000	..	31,39,000
4	Working Expenses—Administra- tion . . . . .	32,73,57,000	..	32,73,57,000

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.
5	Working Expenses—Repairs and Maintenance . . . . .	104,29,56,000	..	104,29,56,000
6	Working Expenses—Operating staff . . . . .	63,80,97,000	..	63,80,97,000
7	Working Expenses—Operation (Fuel) . . . . .	57,21,34,000	..	57,21,34,000
8	Working Expenses—Operation other than Staff and Fuel . . . . .	18,44,89,000	39,20,000	18,84,09,000
9	Working Expenses—Miscellaneous Expenses . . . . .	26,29,60,000	4,82,000	26,34,42,000
10	Working Expenses—Labour Welfare . . . . .	7,88,91,000	..	7,88,91,000
11	Working Expenses—Appropriation to Depreciation Reserve Fund . . . . .	45,00,00,000	..	45,00,00,000
12	Dividend payable to General Revenues . . . . .	49,58,39,000	..	49,58,39,000
13	Open Line Works (Revenue) Labour Welfare . . . . .	1,62,37,000	..	1,62,37,000
14	Open Line Works (Revenue) Other than Labour Welfare . . . . .	13,32,59,000	..	13,32,59,000
15	Construction of New Lines . . . . .	25,39,39,000	..	25,39,39,000
16	Open Line Works—Additions . . . . .	412,02,06,000	..	412,02,06,000
17	Open Line Works—Replacements . . . . .	99,17,43,000	..	99,17,43,000
18	Open Line Works—Development Fund . . . . .	36,70,32,000	..	36,70,32,000
19	Appropriation to Development Fund . . . . .	27,34,00,000	..	27,34,00,000
	TOTAL . . . . .	1,023,26,23,000	47,02,000	1,023,73,25,000



THE FINANCE ACT, 1958

No. 11 OF 1958

[28th April, 1958]

An Act to give effect to the financial proposals of the Central Government for the financial year 1958-59:

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

1. This Act may be called the Finance Act, 1958.

Short title.

2. (1) Subject to the provisions of sub-sections (2) and (3), for the year beginning on the 1st day of April, 1958,—

Income-tax and super<sup>2</sup> tax.

(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 on unearned income, calculated in either case in the manner provided therein; and

11 of 1922.

(b) super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (hereinafter referred to as the 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 on unearned income, calculated in either case in the manner provided therein.

(2) In making any assessment for the year ending on the 31st day of March, 1959,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" or any income chargeable under the head "Interest on Securities" or any income from dividends in respect of which by virtue of section 49B of the Income-tax Act he is deemed himself to have paid the income-tax imposed under that Act, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance (No. 2) Act, 1957, on his total income the same proportion as the amount of such inclusions bears to his total income;

26 of 1957.

(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 (No. 2) Act, 1957, on his total income the same proportion as the amount of such inclusion bears to his total income.

26 of 1957.

(3) 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).

(4) 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,—

(i) in sub-section (1), for the third proviso, the following proviso shall be substituted, namely:—

"Provided further that if in any year the amount of income accruing or arising without the taxable territories exceeds the amount brought into the taxable territories in that year, there shall not be included in the assessment of the income of that year so much of such excess as does not exceed four thousand five hundred rupees, and where any part of such excess consists of salaries paid by the Government, a local authority or a corporation established by a Central, State or Provincial Act, the amount of such salaries not to be included as aforesaid shall be further limited to a sum calculated at the rate of one thousand rupees for each month of service in respect of which the salaries are received abroad.";

(ii) in sub-section (3),—

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

"(via) subject to such conditions as the Central Government may prescribe,—

(a) passage moneys or the value of any free or concessional passage received by or due to any person, not being a citizen of India, from his

employer for himself, his wife and children, in connection with his proceeding on home leave out of India; and

(b) 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-town or village in India;";

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

'(xia) any income chargeable under the heads citizen of India, from his employer for himself, his "Income from other sources" of a registered Trade 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.

(3) for the *Explanation* to clause (xiva), the following *Explanation* shall be substituted, namely:—

'*Explanation*.—"Technician" means a person having specialised knowledge and experience in constructional or manufacturing operations, or in mining or in the generation or distribution of electricity or any other form of power, who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised;';

(4) in clause (xxi), after the words "Sixth Schedule to the Constitution", the words "or in the Union territories of Manipur and Tripura" shall be inserted, and shall be deemed always to have been inserted.

4. In section 4A of the Income-tax Act, for clause (c), the following clause shall be substituted, namely:—

Amendment  
of section  
4A.

"(c) A company is resident in the taxable territories in any year, if—

(i) it is an Indian company; or

(ii) during that year the control and management of its affairs is situated wholly in the taxable territories."

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

Amendment  
of section 7.

(1) in sub-section (1), in the proviso to *Explanation 2*, for the words "State Government", the words "State Government,

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a local authority or a corporation established by a Central, State or Provincial Act" shall be substituted and shall be deemed always to have been substituted;

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

"(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 special allowance, benefit or other perquisites) or five thousand rupees, whichever is less; and

(b) in the case of any other assessee, a sum equal to one-fifth of the salary (exclusive of any special allowance, benefit or other perquisites) or seven thousand and five hundred rupees, whichever is less, except in any case where the assessee was not in receipt of such entertainment allowance regularly from his present employer before the year beginning on the first day of April, 1955."

Amendment  
of section  
9.

6. In section 9 of the Income-tax Act, after clause (b) of sub-section (4), the following clause shall be inserted and shall be deemed always to have been inserted, namely:—

"(c) 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."

Amendment  
of section  
10.

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

(1) for clause (vib) of sub-section (2), the following clause shall be substituted, namely:—

"(vib) in respect of a new ship acquired or new machinery or plant installed after the 31st day of March, 1954, which is wholly used for the purposes of the business carried on by the assessee, a sum by way of development rebate in respect of the year of acquisition of the ship or of the installation of the machinery or plant, equivalent to,—

(i) in the case of a ship acquired after the 31st day of December, 1957, forty per cent. of the actual cost of the ship to the assessee; and

(ii) in the case of a ship acquired before the 1st day of January, 1958, and in the case of any machinery or plant, twenty-five per cent. of the actual cost of the ship or machinery or plant to the assessee.

*Explanation 1.*—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 for the year of acquisition or installation (the total income for this purpose being computed without making any allowance under this clause) is *nil* or is less than the full amount of the development rebate calculated at the rate applicable thereto under this clause,—

(i) the sum to be allowed by way of development rebate for that year under this clause 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 year, and the development rebate to be allowed for the following year shall be such amount as is sufficient to reduce the total income of the assessee for that 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 year and so on, so however that no portion of the development rebate shall be carried forward for more than eight years.

*Explanation 2.*—Where in any year development rebate is to be allowed in accordance with the provisions of *Explanation 1* in respect of ships acquired or machinery or plant installed in more than one year, and the total income of the assessee for that year (the total income for this purpose being computed without making any allowance under this clause) is less than the aggregate of the amounts due to be allowed in respect of the assets aforesaid for that year, the following procedure shall be followed, namely:—

(i) the allowance under paragraph (ii) of *Explanation 1* shall be made before any allowance under paragraph (i) of that *Explanation* is made; and

(ii) where an allowance has to be made under paragraph (ii) of *Explanation 1* in respect of amounts carried forward from more than one year, the amount carried forward from an earlier year shall be allowed before any amount carried forward from a later year:

Provided that no allowance under this clause shall be made unless—

(a) the particulars prescribed for the purpose of clause (vi) have been furnished by the assessee in respect of the ship or machinery or plant; and

(b) except 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, 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 him during a period of ten years next following for the purposes of the business of the undertaking, except—

(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,

and if any such ship, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government at any time before the expiry of ten years from the end of the year in which it was acquired or installed, any allowance made under this clause shall be deemed to have been wrongly allowed for the purposes of this Act.”;

(2) after sub-section (4A), the following sub-section shall be inserted and shall be deemed always to have been inserted, namely:—

“(4B) Nothing in clause (vi) or clause (via) of sub-section (2) 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.”.

Amendment  
of section  
18.

8. In sub-section (2) of section 18 of the Income-tax Act, for the words “at a rate representing the average of the rates applicable to the estimated total income of the assessee under this head”, the words “at a rate representing the average of the rates in force for the financial year in which he is required to deduct the tax which are applicable to the estimated total income of the assessee under this head” shall be substituted, and shall be deemed always to have been substituted.

9. In section 23A of the Income-tax Act, in sub-section (1), for the words "unless he is satisfied 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", the following shall be substituted, namely:—

Amendment  
of section  
23A.

"unless 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;"

10. In section 35 of the Income-tax Act, after sub-section (10), the following sub-section shall be inserted, namely:—

Amendment  
of section  
35.

"(11) 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 in any year of assessment under clause (vib) of sub-section (2) of section 10, and subsequently at any time before the expiry of ten years from the end of the year in which the ship was acquired or the machinery or plant was installed—

(i) the ship, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government; or

(ii) the assessee utilises the amount credited to the reserve account under that clause—

(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, proceed to re-compute the total income of the assessee for the relevant year as if the re-computation is a rectification of a mistake apparent from

the record within the meaning of this section, and the provisions of sub-section (1) shall apply accordingly, the period of four years specified therein being reckoned from the end of the year in which the transfer takes place or the money is so utilised."

Substitution  
of new sec-  
tion for sec-  
tion 44.

Liability in  
case of firm  
or associa-  
tion dis-  
continued  
or dis-  
solved.

11. For section 44 of the Income-tax Act, the following section shall be substituted, namely:—

"44. (1) Where any business, profession or vocation carried on by a firm or other association of persons has been discontinued or, where a firm or other association of persons is dissolved, the Income-tax Officer shall make an assessment of the total income of the firm or other association of persons as such as if no such discontinuance or dissolution had taken place.

(2) If the Income-tax Officer, the Appellate Assistant Commissioner or the Appellate Tribunal in the course of any proceedings under this Act in respect of any such firm or other association of persons as is referred to in sub-section (1) is satisfied that the firm or other association is guilty of any of the acts specified in clause (a) or clause (b) or clause (c) of sub-section (1) of section 28, he or it may impose or direct the imposition of a penalty in accordance with the provisions of that section.

(3) Every person who was at the time of such discontinuance or dissolution a partner of the firm or a member of the association, as the case may be, shall be jointly and severally liable for the amount of tax or penalty payable, and all the provisions of Chapter IV so far as may be, shall apply to any such assessment or imposition of penalty."

Amendment  
of section  
59.

12. In section 59 of the Income-tax Act, after clause (a) of sub-section (2), the following clause shall be inserted, namely:—

"(aa) provide for 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 Central Board of Revenue to be proper and reasonable:

Provided that the rules made in respect of the matters specified in this clause on the first occasion they are made shall not be subject to the condition of previous publication and may be given retrospective effect from such date as the Central Board of Revenue thinks fit;"

Commence-  
ment of  
amendments  
to Act II  
of 1922.

13. (1) The amendment to the Income-tax Act made by sub-clause (3) of clause (ii) of section 3 shall not apply—

(a) to a person to whom the second proviso to clause (xiva) of sub-section (3) of section 4 of the Income-tax Act



applies if his contract of service has been approved by the Central Government before the 1st day of March, 1958; or

(b) to any other person who arrives in India before the 1st day of April, 1958.

(2) Save as otherwise provided in sub-section (1) or elsewhere in this Act, the amendments to the Income-tax Act made by this Act shall have effect on and from the 1st day of April, 1958.

14. In the Wealth-tax Act, 1957, the following amendments shall be made and shall be deemed always to have been made, namely:— Amendment of Act 27 of 1957.

(a) for clause (h) of section 2, the following clause shall be substituted, namely:—

1 of 1956.

“(h) “company” means a company as defined in section 3 of the Companies Act, 1956, and includes—

(i) a company within the meaning of any law in force in the State of Jammu, and Kashmir relating to companies; and

(ii) a company incorporated outside India which has a place of business in India;”;

(b) in clause (xvi) of sub-section (1) of section 5, for the words “and post office national savings certificates”, the words “post office national savings certificates, post office national plan certificates and twelve year national plan savings certificates” shall be substituted;

(c) in section 6, for the words “In computing the net wealth of an individual”, the words “In computing the net wealth of an individual who is not a citizen of India or of an individual” shall be substituted.

15. The Indian Tariff Act, 1934 (hereinafter referred to as the Amendment of Act 32 of 1934. Tariff Act), shall be amended in the manner specified in Parts I, II and III of the Second Schedule.

16. (1) In the Indian Tariff (Amendment) Act, 1949, in sections 4 and 5, for the figures “1958”, the figures “1959” shall be substituted Amendment of Act 1 of 1949.

(2) For the removal of doubts it is hereby declared that the continuance by sub-section (1) of the amendments referred to in section 4 of the Indian Tariff (Amendment) Act, 1949, shall be subject to the amendments made in the Tariff Act by this Act, and, further, be deemed always to have been subject to the amendments, if any, made in the Tariff Act by any Act of Parliament passed after the commencement of the Indian Tariff (Amendment) Act, 1949.

Amendment  
of Act I of  
1944.

17. In the First Schedule to the Central Excises and Salt Act, 1944,—

(a) in Item No. 9,—

(i) for sub-item I(5) (iii), the following shall be substituted, namely:—

“(iii) granule (‘rawa’) of tobacco capable of passing through a sieve having 16 uniform circular or square apertures per linear inch”;

(ii) the *Explanation* to sub-item I(5) shall be omitted;

(b) in Item No. 15, for the entry in the third column, the entry “Twenty-four rupees per ton” shall be substituted.

Discontinu-  
ance of salt  
duty.

18. For the year beginning on the 1st day of April, 1958, 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. of 1944.

## THE FIRST SCHEDULE

(See section 2)

## PART I

## Income-tax and surcharge 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 Paragraph B or Paragraph C or Paragraph D 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, five 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 on unearned income 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 on unearned income 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 on unearned income 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 on unearned income, 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 company and local authority,—

*Rates 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 of 5 per cent. thereon.

*Paragraph C*

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

*Rates of income-tax*

on the whole of the total income .. 25%

*Surcharge on income-tax*

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge of 20 per cent. thereon.

(2) In every case in which under the provisions of the Income-tax Act, income-tax is to be deducted at the maximum rate, deduction shall be made from the whole income which is to be subjected to such deduction at the following rates, namely:—

	Rate of income-tax on the whole income	Rate of surcharge on the whole income
In the case of every company	30%	1.5%
In any other case	25%	5%

*Paragraph D*

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 surcharge 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, five 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 on unearned income 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,—

*Rates of super-tax*

On the whole of the total income .. 16%

*Surcharges on super-tax*

The amount of super-tax computed at the rate hereinbefore specified shall be increased by a surcharge of 12½% thereon.

*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%

*Surcharges on super-tax*

The amount of super-tax computed at the rates hereinbefore specified shall be increased by a surcharge of 12½% thereon.

*Paragraph D*

In the case of 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 its profits and gains from life insurance business	.. 11%
In the case of every other company,—	

*Rates of super-tax*

On the whole of the total income	.. 50%:
----------------------------------	---------

Provided that,—

(i) a rebate at the rate of 40 per cent. on so much of the total income as consists of dividends from a subsidiary Indian company and a rebate 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, 1959, has made the prescribed arrangements for the declaration and payment within India of the dividends payable out of such profits and for the deduction of super-tax from dividends 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 40 per cent. on so much of the total income as consists of dividends from a subsidiary Indian company and a rebate at the rate of 30% on the balance of the total income shall be allowed in the case of any company which satisfies condition (a) but not condition (b) of the preceding clause;

(iii) a rebate, at the rate of 40% on so much of the total income as consists of dividends from a subsidiary Indian company and a rebate at the rate of 20% 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) 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 that part of the aggregate of the sums arrived at in accordance with clause (i) of the second proviso to Paragraph D of Part II of the First Schedule to the Finance (No. 2) Act, 1957, as has not been 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*.

The whole amount of such part.

26 of 1957.

(b) on the amount representing the face value of any 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 except to the extent to which such bonus shares or bonus have been issued out of premiums received in cash on the issue of its shares; and

at the rate of 30%.

(c) in addition, in the case of a company referred to in clause (ii) of the preceding proviso which has distributed to its shareholders during the previous year dividends

in excess of six per cent. of its paid-up capital, not being dividends payable at a fixed rate—

(A) in the case of a company which is not such as is referred to in sub-section (9) of section 23A of the Income-tax Act,—

on that part of the said dividends which exceeds 6 per cent. but does not exceed 10 per cent. of the paid-up capital; at the rate of 10%

on that part of the said dividends which exceeds 10 per cent. of the paid-up capital; at the rate of 20%

and

(B) in the case of any other company—

on that part of the said dividends which exceeds 6 per cent. but does not exceed 10 per cent. of the paid-up capital; at the rate of 10%

on that part of the said dividends which exceeds 10 per cent. but does not exceed 18 per cent. of the paid-up capital; at the rate of 20%

on that part of the said dividends which exceeds 18 per cent. of the paid-up capital; at the rate of 30%

(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), (b) and (c) 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—

(i) the expression "paid-up capital" means the paid up capital (other than capital entitled to a dividend at a fixed rate) of the company as on the first day of the previous year relevant to the assessment for the year ending on the 31st day of March, 1959, increased by any premiums received in cash by the company on the issue of its shares, standing to the credit of the share premium account as on the first day of the previous year aforesaid;

(ii) the expression "dividend" shall be deemed to include any distribution included in the expression "dividend" as defined in clause (6A) of section 2 of the Income-tax Act;

(iii) where any portion of the profits and gains of the company is not included in its total income by reason of such portion being exempt from tax under any provision of the Income-tax Act, the "paid-up capital" of the company, the amount distributed as dividends (not being dividends payable at a fixed rate), the amount representing the face value of any bonus shares and the amount of any bonus issued to the share-holders shall each be deemed to be such proportion thereof as the total income of the company for the previous year bears to its total profits and gains for that year other than capital receipts, 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 account for that year.

## THE SECOND SCHEDULE

(See section 15)

### PART I

In the First Schedule to the Tariff Act,—

(i) in Item No. 47(2), for the existing entry in the fourth column, the entry "Rs. 3 per pound or 50 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;

(ii) in Item No. 63(24), for the existing entries in the fourth and fifth columns, the entries "50 per cent. *ad valorem*" and "40 per cent. *ad valorem*" shall respectively be substituted;

(iii) in Item No. 63(33), for sub-item (b) in the second column, the following sub-item shall be substituted, namely:—

“(b) machine screws, including the following types the shank of which has been threaded to within two pitches from the head, namely:—

- (i) mushroom head roofing bolts, all types;
- (ii) hexagonal head bolts, all types;
- (iii) mudguard cycle bolts (with threading other than British Standard cycle threading).”

#### PART II

In the First Schedule to the Tariff Act, for Items Nos. 28(27), 28(28) and 71(13), the following Items shall respectively be substituted, namely:—

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
1	2	3	4	5	6	7
*28(27)	Antibiotics, such as streptomycin, gramicidin, tyrocidine, tyrothricin and preparations which contain only one antibiotic and are free from other therapeutic ingredients, but not including penicillin in bulk, and p nicillin and its products specified in Items Nos. 28(26) and 28 (26A)	Preferential Revenue.	20 per cent. <i>ad valorem.</i>	14 per cent. <i>ad valorem.</i>	14 per cent. <i>ad valorem.</i>	..
28(28)	(a) Sulpha drugs and preparations which contain only one sulphs drug and are free from other therapeutic ingredients;	Preferential Revenue.	20 per cent. <i>ad valorem.</i>	14 per cent. <i>ad valorem.</i>	14 per cent. <i>ad valorem.</i>	..
	(b) Vitamins and vitamin preparations (excluding fish liver oils) free from other therapeutic ingredients.	Preferential Revenue.	20 per cent. <i>ad valorem.</i>	14 per cent. <i>ad valorem.</i>	14 per cent. <i>ad valorem.</i>	..
71(13)	(I) Zip fasteners—					
	(a) with metal teeth other than those specified in category (b).	Revenue	100 per cent. <i>ad valorem</i> or Re. 1 per foot, whichever is higher.	..	..	..
	(b) with metal teeth having not more than 9 teeth per inch on either side and in which the total width of the metal portion in the closed state is not less than 8 mm.	Revenue	100 per cent. <i>ad valorem</i> or Re. 1 per foot, whichever is higher.	..	..	..

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	
	(c) not otherwise specified.	Revenue	100 per cent. <i>ad valorem</i> or Re. 1 per foot, whichever is higher.	..	..	..
	(2) Parts of zip fasteners—					
	(a) teeth, that is to say, each of the two sides of teeth, whether imported in continuous lengths or cut to size and whether imported in interlocking pairs or not.	Revenue	100 per cent. <i>ad valorem</i> or 50 <i>naye paise</i> per foot, whichever is higher.	..	..	..
	(b) Others.	Revenue	100 per cent. <i>ad valorem</i> .	..	..	..

## PART III

In the Second Schedule to the Tariff Act, in Item No. 9, for the existing entry in the second column, the entry "Mustard oil (including rapessed oil, jamba oil and radish seed oil)" shall be substituted.

THE APPROPRIATION (No. 2) ACT, 1958

No. 12 OF 1958

[30th April, 1958]

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 1958-59.

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

Short title. 1. This Act may be called the Appropriation (No. 2) Act, 1958.

Issue of Rs 71,24,57,07,000 out of the Consolidated Fund of India for the year 1958-59. 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, 1958] to the sum of seven thousand one hundred and twenty-four crores, fifty-seven lakhs and seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1958-59 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.
1	Ministry of Commerce and Industry	66,43,000	..	66,43,000
2	Industries	26,90,99,000	5,02,000	26,90,99,000
3	Salt	1,58,04,000	..	1,58,04,000
4	Commercial Intelligence and Statistics	79,81,000	..	79,81,000

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.
5	Miscellaneous Departments and Expenditure under the Ministry of Commerce and Industry	1,90,64,000	..	1,90,64,000
6	Ministry of Community Development	21,99,000	..	21,99,000
7	Community Development Projects and National Extension Service	13,13,27,000	..	13,13,27,000
8	Ministry of Defence	37,68,000	..	37,68,000
9	Defence Services—Effective—Army	1,78,08,25,000	2,50,000	1,78,10,75,000
10	Defence Services—Effective—Navy	16,65,08,000	50,000	16,65,58,000
11	Defence Services—Effective—Air Force	88,54,15,000	50,000	88,54,65,000
12	Defence Services—Non-Effective Charges	13,70,49,000	87,50,000	14,57,99,000
13	Ministry of Education and Scientific Research	68,92,000	..	68,92,000
14	Archæology	1,09,70,000	..	1,09,70,000
15	Survey of India	1,71,11,000	..	1,71,11,000
16	Botanical Survey	12,50,000	..	12,50,000
17	Zoological Survey	11,87,000	..	11,87,000
18	Scientific Research	6,38,98,000	..	6,38,98,000
19	Other Scientific Departments	56,67,000	..	56,67,000
20	Education	25,37,10,000	..	25,37,10,000
21	Miscellaneous Departments and Expenditure under the Ministry of Education and Scientific Research	2,41,90,000	..	2,41,90,000
22	Tribal Areas	8,02,99,000	..	8,02,99,000
23	Naga Hills-Tuensang Area	3,64,57,000	..	3,64,57,000
24	External Affairs	8,78,80,000	..	8,78,80,000
25	State of Pondicherry	2,98,88,000	40,000	2,99,28,000
26	Miscellaneous Expenditure under the Ministry of External Affairs	4,09,000	..	4,09,000

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.
27	Ministry of Finance . . . . .	1,58,77,000	..	1,58,77,000
28	Customs . . . . .	4,16,27,000	5,000	4,16,32,000
29	Union Excise Duties . . . . .	7,86,89,000	68,97,33,000	76,84,22,000
30	Taxes on Income including Cor- poration Tax, etc. . . . .	5,41,40,000	1,23,000	5,42,63,000
31	Opium . . . . .	2,42,18,000	..	2,42,18,000
32	Stamps . . . . .	2,34,05,000	8,48,000	2,42,53,000
33	Audit . . . . .	10,02,58,000	20,47,000	10,23,05,000
34	Currency . . . . .	3,70,14,000	11,12,000	3,81,26,000
35	Mint . . . . .	4,77,07,000	..	4,77,07,000
36	Territorial and Political Pensions	22,09,000	..	22,09,000
37	Superannuation Allowances and Pensions . . . . .	3,51,00,000	33,33,000	3,84,33,000
38	Miscellaneous Departments and Other Expenditure under the Ministry of Finance . . . . .	31,09,44,000	1,000	31,09,45,000
39	Planning Commission . . . . .	2,10,00,000	..	2,10,00,000
40	Miscellaneous Adjustments between the Union and State Governments . . . . .	6,66,000	..	6,66,000
41	Pre-partition Payments . . . . .	34,42,000	2,85,000	37,27,000
	CHARGED.—Interest on Debt and other obligations and reduction or avoidance of Debt . . . . .	..	1,39,42,93,000	1,39,42,93,000
	CHARGED.—Grants-in-aid to States	..	46,96,70,000	46,96,70,000
42	Ministry of Food and Agricul- ture . . . . .	73,54,000	..	73,54,000
43	Forest . . . . .	2,56,26,000	..	2,56,26,000
44	Agriculture . . . . .	15,72,49,000	1,000	15,72,50,000
45	Civil Veterinary Services . . . . .	1,48,25,000	..	1,48,25,000
46	Miscellaneous Departments and Other Expenditure under the Ministry of Food and Agri- culture . . . . .	13,80,85,000	..	13,80,85,000
47	Ministry of Health . . . . .	13,71,000	..	13,71,000



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.
48	Medical Services . . . . .	5,18,73,000	..	5,18,73,000
49	Public Health . . . . .	14,06,97,000	..	14,06,97,000
50	Miscellaneous Departments and Expenditure under the Minis- try of Health . . . . .	87,61,000	..	87,61,000
51	Ministry of Home Affairs . . . . .	2,73,56,000	..	2,73,56,000
52	Cabinet . . . . .	35,34,000	..	35,34,000
53	Zonal Councils . . . . .	4,44,000	..	4,44,000
54	Administration of Justice . . . . .	2,25,000	14,87,000	17,12,000
55	Police . . . . .	4,93,68,000	..	4,93,68,000
56	Census . . . . .	8,34,000	..	8,34,000
57	Statistics . . . . .	1,81,12,000	..	1,81,12,000
58	Privy Purses and Allowances of Indian Rulers . . . . .	4,91,000	5,41,84,000	5,46,75,000
59	Delhi . . . . .	7,73,27,000	51,000	7,73,78,000
60	Himachal Pradesh . . . . .	4,62,40,000	1,84,000	4,64,24,000
61	Andaman and Nicobar Islands . . . . .	2,77,91,000	..	2,77,91,000
62	Manipur . . . . .	2,16,72,000	..	2,16,72,000
63	Tripura . . . . .	3,28,73,000	50,000	3,29,23,000
64	Laccadive, Minicoy and Amindivi Islands . . . . .	19,74,000	..	19,74,000
65	Miscellaneous Departments and Expenditure under the Minis- try of Home Affairs . . . . .	8,75,72,000	..	8,75,72,000
66	Ministry of Information and Broadcasting . . . . .	13,49,000	..	13,49,000
67	Broadcasting . . . . .	4,01,00,000	..	4,01,00,000
68	Miscellaneous Departments and Expenditure under the Ministry of Information and Broadcasting . . . . .	3,34,11,000	..	3,34,11,000
69	Ministry of Irrigation and Power . . . . .	19,67,000	..	19,67,000
70	Multi-purpose River Schemes . . . . .	1,28,07,000	..	1,28,07,000

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.
71	Miscellaneous Departments and Other Expenditure under the Ministry of Irrigation and Power	1,05,10,000	..	1,05,10,000
72	Ministry of Labour and Employment	17,47,000	..	17,47,000
73	Chief Inspector of Mines	23,04,000	..	23,04,000
74	Miscellaneous Departments and Other Expenditure under the Ministry of Labour and Employment	8,80,17,000	..	8,80,17,000
75	Ministry of Law	19,39,000	..	19,39,000
76	Elections	1,81,41,000	..	1,81,41,000
77	Miscellaneous Expenditure under the Ministry of Law	5,44,000	..	5,44,000
78	Ministry of Rehabilitation	40,45,000	..	40,45,000
79	Expenditure on Displaced persons and Minorities	20,48,25,000	..	20,48,25,000
80	Ministry of Steel, Mines and Fuel	33,49,000	..	33,49,000
81	Geological Survey	1,31,85,000	..	1,31,85,000
82	Exploration of Oil and Natural Gas	2,18,35,000	..	2,18,35,000
83	Miscellaneous Departments and Other Expenditure under the Ministry of Steel, Mines and Fuel	49,62,52,000	..	49,62,52,000
84	Ministry of Transport and Communications	76,62,000	..	76,62,000
85	Mercantile Marine Department	62,10,000	..	62,10,000
86	Light-houses and Light-ships	1,38,96,000	..	1,38,96,000
87	Central Road Fund	4,28,99,000	..	4,28,99,000
88	Communications (including National Highways)	6,03,69,000	..	6,03,69,000
89	Indian Posts and Telegraphs Department (including Working Expenses)	62,96,98,000	3,17,17,000	66,14,15,000
90	Meteorology	1,61,46,000	..	1,61,46,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
91	Overseas Communications Service	1,16,76,000	7,00,000	1,23,76,000
92	Aviation	3,79,52,000	..	3,79,52,000
93	Miscellaneous Departments and Other Expenditure under the Ministry of Transport and Communications	1,38,68,000	..	1,38,68,000
94	Ministry of Works, Housing and Supply	56,71,000	..	56,71,000
95	Supplies	2,71,95,000	..	2,71,95,000
96	Other Civil Works	25,12,32,000	41,56,000	25,53,88,000
97	Stationery and Printing	7,19,67,000	..	7,19,67,000
98	Miscellaneous Departments and Expenditure under the Ministry of Works, Housing and Supply	88,56,000	..	88,56,000
99	Department of Atomic Energy	9,08,000	..	9,08,000
100	Atomic Energy Research	3,30,80,000	..	3,30,80,000
101	Department of Parliamentary Affairs	2,25,000	..	2,25,000
102	Lok Sabha	1,03,03,000	67,000	1,03,70,000
103	Miscellaneous Expenditure under the Lok Sabha	34,000	..	34,000
104	Rajya Sabha	33,31,000	61,000	33,92,000
	CHARGED.— <i>Staff, Household and allowances of the President</i>	..	18,37,000	18,37,000
105	Secretariat of the Vice-President	59,000	..	59,000
	CHARGED.— <i>Union Public Service Commission</i>	..	42,05,000	42,05,000
106	Capital Outlay of the Ministry of Commerce and Industry	12,93,89,000	..	12,93,89,000
107	Capital Outlay of the Ministry of Community Development	2,33,36,000	..	2,33,36,000
108	Defence Capital Outlay	29,93,50,000	6,50,000	30,00,00,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
109	Capital Outlay of the Ministry of Education and Scientific Research	2,18,74,000	..	2,18,74,000
110	Capital Outlay of the Ministry of External Affairs	46,44,000	..	46,44,000
111	Capital Outlay on the India Security Press	11,07,000	..	11,07,000
112	Capital Outlay on Currency and Coinage	2,90,60,000	..	2,90,60,000
113	Capital Outlay on Mints	46,20,000	..	46,20,000
114	Commuted Value of Pensions	45,81,000	1,00,000	46,81,000
115	Payments to Retrenched Personne	12,000	..	12,000
116	Other Capital Outlay of the Ministry of Finance	89,85,87,000	..	89,85,87,000
117	Loans and Advances by the Central Government	78,01,83,000	2,84,51,32,000	3,62,53,15,000
	CHARGED.— <i>Repayment of Debt</i>	..	50,98,06,39,000	50,98,06,39,000
118	Capital Outlay on Forests	9,51,000	..	9,51,000
119	Purchase of Foodgrains	1,24,12,73,000	3,20,000	1,24,15,93,000
120	Other Capital Outlay of the Ministry of Food and Agriculture.	30,12,22,000	4,000	30,12,26,000
121	Capital Outlay of the Ministry of Health	9,79,38,000	..	9,79,38,000
122	Capital Outlay of the Ministry of Home Affairs	1,12,61,000	..	1,12,61,000
123	Capital Outlay on Broadcasting.	2,15,59,000	..	2,15,59,000
124	Capital Outlay on Multi-purpose River Schemes	4,22,00,000	..	4,22,00,000
125	Other Capital Outlay of the Ministry of Irrigation and Power	5,58,49,000	..	5,58,49,000
126	Capital Outlay of the Ministry of Labour and Employment.	11,55,000	..	11,55,000

1	2	3		
		Sums not exceeding		
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
127	Capital Outlay of the Ministry of Rehabilitation . . . . .	21,00,00,000	..	21,00,00,000
128	Capital Outlay of the Ministry of Steel, Mines and Fuel . . . . .	1,72,91,88,000	..	1,72,91,88,000
129	Capital Outlay on Ports . . . . .	4,05,00,000	..	4,05,00,000
130	Capital Outlay on Roads . . . . .	15,00,00,000	..	15,00,00,000
131	Capital Outlay on Indian Posts and Telegraphs (not met from Revenue) . . . . .	30,09,25,000	..	30,09,25,000
132	Capital Outlay on Civil Aviation . . . . .	3,23,67,000	5,00,000	3,28,67,000
133	Other Capital Outlay of the Ministry of Transport and Communications . . . . .	11,27,11,000	..	11,27,11,000
134	Delhi Capital Outlay . . . . .	6,35,80,000	8,90,000	6,44,70,000
135	Capital Outlay on Buildings . . . . .	5,72,10,000	5,70,000	5,77,80,000
136	Other Capital Outlay of the Ministry of Works, Housing and Supply . . . . .	3,55,74,000	..	3,55,74,000
137	Capital Outlay of the Department of Atomic Energy . . . . .	5,19,00,000	..	5,19,00,000
	GRAND TOTAL . . . . .	14,74,71,10,000	66,49,85,97,000	71,24,57,07,000

THE BOMBAY, CALCUTTA AND MADRAS PORT TRUSTS (AMENDMENT) ACT, 1958

No. 13 OF 1958

[8th May, 1958]

An Act further to amend the Bombay Port Trust Act, 1879, the Calcutta Port Act, 1890, and the Madras Port Trust Act, 1905.

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

**Short title.** 1. This Act may be called the Bombay, Calcutta and Madras Port Trusts (Amendment) Act, 1958.

**Insertion of new section 42KK in Bombay Act 6 of 1879.** 2. After section 42K of the Bombay Port Trust Act, 1879, the following section shall be inserted, namely:—

Power of Board to borrow money from the International Bank for Reconstruction and Development or other foreign institutions.

“42KK. Notwithstanding anything contained in this Act or in any other law for the time being in force, the Board may, with the previous sanction of the Central Government and on such terms and conditions as may be approved by that Government, raise for the general purposes of this Act loans in any currency or currencies from the International Bank for Reconstruction and Development or from any other bank or institution in any country outside India; and no other provision of this Part shall apply to or in relation to any such loan unless the terms and conditions of the loan or the approval thereof by the Central Government shall otherwise provide.”

**Insertion of new section 27KK in Bengal Act 3 of 1890.**

Power of Commissioners to borrow money from the International Bank for Reconstruction and Development or other foreign institutions.

3. In the Calcutta Port Act, 1890, after section 27K, the following section shall be inserted, namely:—

“27KK. Notwithstanding anything contained in this Act or in any other law for the time being in force, the Commissioners in meeting may, with the previous sanction of the Central Government and on such terms and conditions as may be approved by that Government, raise for the purposes of this Act loans in any currency or currencies from the International Bank for Reconstruction and Development or from any other bank or institution in any country outside India; and no other provision of this Chapter shall apply to or in relation to any such

loan unless the terms and conditions of the loan or the approval thereof by the Central Government shall otherwise provide.”.

4. In the Madras Port Trust Act, 1905, after section 72A, the following section shall be inserted, namely:—

Insertion of new section 72B in Madras Act 2 of 19 5.

“72B. Notwithstanding anything contained in this Act or in any other law for the time being in force, the Board may, with the previous sanction of the Central Government and on such terms and conditions as may be approved by that Government, raise for the purposes of this Act loans in any currency or currencies from the International Bank for Reconstruction and Development or from any other bank or institution in any country outside India; and no other provision of this Chapter shall apply to or in relation to any such loan unless the terms and conditions of the loan or the approval thereof by the Central Government shall otherwise provide.”.

Power of Board to borrow money from the International Bank for Reconstruction and Development or other foreign institutions.

THE APPROPRIATION (No. 3) ACT, 1958

No. 14 OF 1958

[12th May, 1958]

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, 1955, in excess of the amounts granted for those services and for that year.

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

Short title. 1. This Act may be called the Appropriation (No. 3) Act, 1958.

Issue of Rs. 3,04,63,929 out of the Consolidated Fund of India to meet certain excess expenditure for the year ended on the 31st March, 1955

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 three crores, four lakhs, sixty-eight thousand, nine hundred and twenty-nine rupees shall be deemed to have been authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1955, in excess of the amounts granted for those services and for that year.

Appropriation. 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, 1955.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Excess		
		Voted Portion	Charged Portion	Total
3	Commercial Intelligence and Statistics	Rs. 17,068	Rs. ..	Rs. 17,068
18	Archæology	38,342	..	38,342



1 No. of Vote	2 Services and purposes	3 Excess		
		Voted Portion	Charged Portion	Total
		Rs.	Rs.	Rs.
38	Miscellaneous Departments and Expenditure under the Ministry of Finance.	17,03,041	4,07,114	21,10,155
40	Miscellaneous Adjustments between the Union and State Governments	16,572		16,572
42	Pre-partition Payments		1,33,991	1,33,991
55	Police	11,12,082		11,12,082
64	Miscellaneous Departments and Other Expenditure under the Ministry of Irrigation and Power	40,673		40,673
69	Civil Defence	853		853
104	Other Civil Works	2,59,32,048	2,90,792	2,62,22,840
124	Other Capital Outlay of the Ministry of Food and Agriculture		7,76,353	7,76,353
	<b>TOTAL</b>	<b>2,88,60,679</b>	<b>16,08,250</b>	<b>3,04,68,929</b>

THE MINES AND MINERALS (REGULATION AND DEVELOPMENT) AMENDMENT ACT, 1958

No. 15 OF 1958

[15th May, 1958]

An Act to amend the Mines and Minerals (Regulation and Development) Act, 1957, for the purpose of exempting mining leases granted before the 25th day of October, 1949, in respect of coal from certain provisions of that Act in view of the importance of such leases in the context of coal production generally.

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

Short title. 1. This Act may be called the Mines and Minerals (Regulation and Development) Amendment Act, 1958.

Insertion of new section 30A in Act 67 of 1957. 2. After section 30 of the Mines and Minerals (Regulation and Development) Act, 1957, the following section shall be inserted, and shall be deemed always to have been inserted, namely:—

Special provisions relating to mining leases for coal granted before 25th October, 1949.

“30A. Notwithstanding anything contained in this Act, the provisions of sub-section (1) of section 9 and of sub-section (1) of section 16 shall not apply to or in relation to mining leases granted before the 25th day of October, 1949, in respect of coal, but the Central Government, if it is satisfied that it is expedient so to do, may, by notification in the Official Gazette, direct that all or any of the said provisions (including any rules made under sections 13 and 18) shall apply to or in relation to such leases subject to such exceptions and modifications, if any, as may be specified in that or in any subsequent notification.”

Rep. by Act 58 of 1958, s. 29 Sch I (w. of. 26.12.60)

THE INDIAN OATHS (AMENDMENT) ACT, 1958

No. 16 OF 1958

[15th May, 1958]

An Act further to amend the Indian Oaths Act, 1873.

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

1. This Act may be called the Indian Oaths (Amendment) Act, 1958. Short title

10 of 1873. 2. Section 16 of the Indian Oaths Act, 1873, shall be omitted.

Omission of  
section 16.

Rep. by Act 50 of 1960, B. 2 d. Beh. (w. of 26.12.60)

THE HYDERABAD SECURITIES CONTRACTS  
REGULATION (REPEAL) ACT, 1958

No. 17 OF 1958

[15th May, 1958]

An Act to provide for the repeal of the Hyderabad Securities Contracts Regulation Act, 1353 Fasli (VII of 1353 Fasli).

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

Short title. 1. This Act may be called the Hyderabad Securities Contracts Regulation (Repeal) Act, 1958.

Repeal. 2. On such day<sup>1</sup> as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Hyderabad Securities Contracts Regulation Act, 1353 Fasli shall stand repealed.

VII of 1353  
Fasli.

See India Code Vol VII B

## THE GIFT-TAX ACT, 1958

### ARRANGEMENT OF SECTIONS

#### CHAPTER I

##### PRELIMINARY

#### SECTIONS

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

#### CHAPTER II

##### CHARGE OF GIFT-TAX AND GIFTS SUBJECT TO SUCH CHARGE

3. Charge of gift-tax.
4. Gifts to include certain transfers.
5. Exemption in respect of certain gifts.
6. Value of gifts, how determined.

#### CHAPTER III

##### GIFT-TAX AUTHORITIES

7. Gift-tax Officers.
8. Appellate Assistant Commissioners of Gift-tax.
9. Commissioners of Gift-tax.
10. Inspecting Assistant Commissioners of Gift-tax.
11. Gift-tax Officers to be subordinate to the Commissioner of Gift-tax and the Inspecting Assistant Commissioner of Gift-tax.
12. Gift-tax authorities to follow orders, etc., of the Board.

#### CHAPTER IV

##### ASSESSMENT

13. Return of gifts.
14. Return after due date and amendment of return.
15. Assessment.
16. Gift escaping assessment.
17. Penalty for default and concealment.
18. Rebate on advance payments.

## CHAPTER V

## LIABILITY TO ASSESSMENT IN SPECIAL CASES

19. Tax of deceased person payable by legal representative.
20. Assessment after partition of a Hindu undivided family.
21. Liability in case of discontinued firm or association of persons.

## CHAPTER VI

## APPEALS, REVISIONS AND REFERENCES

22. Appeal to the Appellate Assistant Commissioner from orders of Gift-tax Officers.
23. Appeal to the Appellate Tribunal.
24. Power of Commissioner to revise orders of subordinate authorities.
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26. Reference to High Court.
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28. Appeal to Supreme Court.

## CHAPTER VII

## PAYMENT AND RECOVERY OF GIFT-TAX

29. Gift-tax by whom payable.
30. Gift-tax to be charged on property gifted.
31. Notice of demand.
32. Recovery of tax and penalties.
33. Mode of recovery.

## CHAPTER VIII

## MISCELLANEOUS

34. Rectification of mistakes.
35. Prosecution.
36. Power to take evidence on oath, etc.
37. Power to call for information.
38. Effect of transfer of authorities on pending proceedings.
39. Computation of period of limitation.
40. Service of notice.
41. Prohibition of disclosure of information.
42. Bar of suits in civil court.
43. Appearance before Gift-tax authorities by authorised representatives.
44. Agreement for avoidance or relief of double-taxation with respect to gift-tax.
45. Act not to apply in certain cases.
46. Power to make rules.

## THE SCHEDULE

THE GIFT-TAX ACT, 1958

No. 18 OF 1958

[15th May, 1958]

An Act to provide for the levy of gift-tax.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Gift-tax Act, 1958.

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 April, 1958.

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

Definitions.

(i) "Appellate Assistant Commissioner" means a person empowered to exercise the powers of the Appellate Assistant Commissioner of Gift-tax under section 8;

(ii) "Appellate Tribunal" means the Appellate Tribunal appointed under section 5A of the Income-tax Act;

(iii) "assessee" means a person by whom gift-tax or any other sum of money is payable under this Act, and includes every person in respect of whom any proceeding under this Act has been taken for the determination of the gift-tax payable by him;

(iv) "assessment year" means the year for which tax is chargeable under section 3;

(v) "Board" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924;

(vi) "Commissioner" means a person empowered to exercise the powers of a Commissioner of Gift-tax under section 9;

(vii) "company" means a company as defined in section 3 of the Companies Act, 1956, and includes a foreign company of 1956 within the meaning of section 591 of that Act;

(viii) "donee" means any person who acquires any property under a gift, and, where a gift is made to a trustee for the benefit of another person, includes both the trustee and the beneficiary;

(ix) "donor" means any person who makes a gift;

(x) "executor" means an executor or administrator of the estate of a deceased person;

(xi) "firm" has the meaning assigned to it in the Indian Partnership Act, 1932;

9 of 1932.

(xii) "gift" means the transfer by one person to another of any existing movable or immovable property made voluntarily and without consideration in money or money's worth, and includes the transfer of any property deemed to be a gift under section 4;

(xiii) "Gift-tax Officer" means the Income-tax Officer authorised to perform the functions of a Gift-tax Officer under section 7;

(xiv) "Income-tax Act" means the Indian Income-tax Act, 1922;

11 of 1922.

(xv) "Income-tax Officer" means a person appointed to be an Income-tax Officer under the Income-tax Act;

(xvi) "Inspecting Assistant Commissioner of Gift-tax" means a person empowered to exercise the functions of an Inspecting Assistant Commissioner of Gift-tax under section 10;

(xvii) "partner" has the meaning assigned to it in the Indian Partnership Act, 1932, and includes a person who being a minor has been admitted to the benefits of partnership;

(xviii) "person" includes a Hindu undivided family or a company or an association or a body of individuals or persons, whether incorporated or not;

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



(xx) "previous year", in relation to any assessment year—

(a) in the case of an assessee having a source of income, profits or gains in respect of which there is no previous year under the Income-tax Act, means the twelve months ending on the 31st day of March immediately preceding the assessment year;

(b) in the case of an assessee having different previous years under the Income-tax Act for different sources of income, profits or gains, means that previous year of twelve months determined as the previous year under sub-clause (a) of clause (11) of section 2 of the Income-tax Act or such period determined as the previous year under sub-clause (b) of clause (11) of that section, whichever expired last;

(c) in the case of any other assessee, means the previous year as defined in clause (11) of section 2 of the Income-tax Act if an assessment were to be made under that Act for that year;

(xxi) "principal officer", used with reference to a company or any association of persons, means—

(a) the secretary and treasurer, manager, managing agent, managing director or agent of the company or association; or

(b) any person connected with the management of the affairs of the company or association upon whom the Gift-tax Officer has served a notice of his intention of treating him as the principal officer thereof;

(xxii) "property" includes any interest in property, movable or immovable;

(xxiii) "taxable gifts" means gifts chargeable to Gift-tax under this Act;

(xxiv) "transfer of property" means any disposition, conveyance, assignment, settlement, delivery, payment or other alienation of property and, without limiting the generality of the foregoing, includes—

(a) the creation of a trust in property;

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

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

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

(xxv) "valuer" means a valuer appointed under section 4 of the Estate Duty Act, 1953.

34 of 1953.

## CHAPTER II

## CHARGE OF GIFT-TAX AND GIFTS SUBJECT TO SUCH CHARGE

Charge of gift-tax.

3. Subject to the other provisions contained in this Act, there shall be charged for every financial year commencing on and from the 1st day of April, 1958, a tax (hereinafter referred to as gift-tax) in respect of the gifts, if any, made by a person during the previous year (other than gifts made before the 1st day of April, 1957) at the rate or rates specified in the Schedule.

Gifts to include certain transfers.

4. For the purposes of this Act,—

(a) where property is transferred otherwise than for adequate consideration, the amount by which the market value of the property at the date of the transfer exceeds the value of the consideration shall be deemed to be a gift made by the transferor;

(b) where property is transferred for a consideration which, having regard to the circumstances of the case, has not passed or is not intended to pass either in full or in part from the transferee, to the transferor, the amount of the consideration which has not passed or is not intended to pass shall be deemed to be a gift made by the transferor;

(c) where there is a release, discharge, surrender, forfeiture or abandonment of any debt, contract or other actionable claim or of any interest in property by any person, the value of the release, discharge, surrender, forfeiture or abandonment, to the extent to which it has not been found to the satisfaction of the Gift-tax Officer to have been *bona fide*, shall be deemed to be a gift made by the person responsible for the release, discharge, surrender, forfeiture or abandonment;

(d) Where a person absolutely entitled to property causes or has caused the same to be vested in whatever manner in himself and any other person jointly without adequate consi-

deration and such other person makes an appropriation from or out of the said property, the amount of the appropriation used for the benefit of the person making the appropriation or for the benefit of any other person shall be deemed to be a gift made in his favour by the person who causes or has caused the property to be so vested.

5. (1) Gift-tax shall not be charged under this Act in respect of gifts made by any person—

Exemption  
in respect of  
certain gifts.

(i) of immovable property situate outside the territories to which this Act extends;

(ii) of movable property situate outside the said territories unless the person—

(a) being an individual, is a citizen of India and is ordinarily resident in the said territories, or

(b) not being an individual, is resident in the said territories,

during the previous year in which the gift is made;

(ii) of property in the form of savings certificates issued by the Central Government, which that Government, by notification in the Official Gazette, exempts from gift-tax;

(iv) to the Government or any local authority;

(v) to any institution or fund established for a charitable purpose to which the provisions of section 15B of the Income-tax Act apply;

(vi) for any charitable purpose not falling within clause (v)—

(a) made at any time before the 1st day of April, 1959;

or

(b) made at any time after that date subject, in respect of each such gift, to a maximum of rupees one hundred in value and, in respect of such gifts in any one previous year to the same donee, to a maximum of rupees five hundred in value in the aggregate;

(vii) to any relative dependent upon him for support and maintenance, on the occasion of the marriage of the relative, subject to a maximum of rupees ten thousand in value in respect of the marriage of each such relative;

(viii) to his or her spouse, subject to a maximum of rupees one lakh in value in the aggregate in one or more previous years, the expression "spouse" in this clause, where there are more wives than one, meaning all the wives together;

(ix) of policies of insurance or annuities to any person (other than his wife) who is dependent upon him for support and maintenance, subject to a maximum of rupees ten thousand in value in the aggregate in one or more previous years of the benefits in respect of each such donee;

(x) under a will;

(xi) in contemplation of death;

(xii) for the education of his children, to the extent to which the gifts are proved to the satisfaction of the Gift-tax Officer as being reasonable having regard to the circumstances of the case;

(xiii) being an employer, to any employee by way of bonus, gratuity or pension or to the dependents of a deceased employee, to the extent to which the payment of such bonus, gratuity or pension is proved to the satisfaction of the Gift-tax Officer as being reasonable having regard to the circumstances of the case and is made solely in recognition of the services rendered by the employees;

(xiv) in the course of carrying on a business, profession or vocation, to the extent to which the gift is proved to the satisfaction of the Gift-tax Officer to have been made *bona fide* for the purpose of such business, profession or vocation;

(xv) to any person in charge of any such *Bhoodan* or *Sampattidan* movement as the Central Government may, by notification in the Official Gazette, specify;

(xvi) out of the sums, if any, guaranteed or assured by the Central Government as his privy purse, if the gifts are made for—

(a) the maintenance of any relatives dependent on him for support and maintenance; or

(b) for the performance of any official ceremonies:

Provided that such gifts are in accordance with the practice, usage or tradition of the family to which the person making the gift belongs.

(2) Without prejudice to the provisions contained in sub-section (1), gift-tax shall not be charged under this Act in respect of gifts made by any person during the previous year, subject to a maximum of rupees ten thousand in value.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), where either spouse makes any gifts out of any such gifts received by that spouse as fall within clause (viii) of sub-section (1), the gifts so made shall be deemed to be taxable gifts made by that spouse and nothing contained in sub-section (1) or sub-section (2) shall apply in relation to any such gifts.

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

(a) an individual shall be deemed to be ordinarily resident in the territories to which this Act extends during the previous year in which the gift is made if during that year he is regarded as a resident but not as not ordinarily resident in the taxable territories within the meaning of the Income-tax Act;

(b) a Hindu undivided family, firm or other association of persons shall be deemed to be resident in the territories to which this Act extends during any previous year unless, during that year, the control and management of its affairs was situated wholly outside the said territories;

(c) a company shall be deemed to be resident in the territories to which this Act extends during the previous year, if—

(i) it is a company formed and registered under the Companies Act, 1956, or is an existing company within the meaning of that Act; or

(ii) during that year, the control and management of that company was situated wholly in the said territories;

(d) "gifts made in contemplation of death" has the same meaning as in section 191 of the Indian Succession Act, 1925.

6. (1) The value of any property other than cash transferred by way of gift shall, subject to the provisions of sub-sections (2) and (3), be estimated to be the price which in the opinion of the Gift-tax Officer it would fetch if sold in the open market on the date on which the gift was made. Value of gifts, how determined.

(2) Where a person makes a gift which is not revocable for a specified period, the value of the property gifted shall be the capitalised value of the income from the property gifted during the period for which the gift is not revocable.

(3) Where the value of any property cannot be estimated under sub-section (1) because it is not saleable in the open market, the value shall be determined in the prescribed manner.

### CHAPTER III

#### GIFT-TAX AUTHORITIES

Gift-tax  
Officers.

7. Every Income-tax Officer having jurisdiction or exercising powers as such under the Income-tax Act in respect of any person shall perform the functions of a Gift-tax Officer under this Act in respect of that person.

*Explanation.*—For the purposes of this section, the Income-tax Officer having jurisdiction in relation to a person who has no income assessable to income-tax under the Income-tax Act, means the Income-tax Officer of the area in which that person resides.

Appellate  
Assistant  
Commissioners of  
Gift-tax.

8. The Board may empower as many persons as it thinks fit to exercise under this Act the functions of an Appellate Assistant Commissioner of Gift-tax, and on being so empowered the Appellate Assistant Commissioners shall perform their functions in respect of such areas or such persons or such classes of persons as the Board may direct, and where such directions have assigned to two or more Appellate Assistant Commissioners the same areas or the same persons or the same classes of persons they shall perform their functions in accordance with such orders as the Board may make for the distribution and allocation of the work to be performed.

Commis-  
sioners of  
Gift-tax.

9. The Board may empower as many persons as it thinks fit to exercise under this Act the functions of a Commissioner of Gift-tax, and on being so empowered the Commissioners of Gift-tax shall perform their functions in respect of such areas or such persons or such classes of persons as the Board may direct, and where such directions have assigned to two or more Commissioners the same area, or the same persons or the same classes of persons they shall have concurrent jurisdiction subject to such orders, if any, as the Board may make for the distribution and allocation of the work to be performed.

Inspecting  
Assistant  
Commissioners of  
Gift-tax.

10. The Commissioner of Gift-tax may empower as many persons as he thinks fit to exercise under this Act the functions of an Inspecting Assistant Commissioner of Gift-tax, and on being so

empowered the Inspecting Assistant Commissioners of Gift-tax shall perform their functions in respect of such areas or such persons or such classes of persons as the Commissioner may direct, and where such directions have assigned to two or more Inspecting Assistant Commissioners the same area or the same persons or the same classes of persons they shall perform their functions in accordance with such orders as the Commissioner may make for the distribution and allocation of the work to be performed.

11. The Gift-tax Officers shall be subordinate to the Commissioner of Gift-tax and the Inspecting Assistant Commissioner of Gift-tax within whose jurisdiction they perform their functions.

Gift-tax Officers to be subordinate to the Commissioner of Gift-tax and the Inspecting Assistant Commissioner of Gift-tax.

12. All officers and other persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board:

Gift-tax authorities to follow orders, etc. of the Board.

Provided that no orders, instructions or directions shall be given by the Board so as to interfere with the discretion of the Appellate Assistant Commissioner of Gift-tax in the exercise of his appellate functions.

#### CHAPTER IV

##### ASSESSMENT

13. (1) Every person who during a previous year has made any taxable gifts shall, before the thirtieth day of June of the corresponding assessment year, furnish to the Gift-tax Officer a return in the prescribed form and verified in the prescribed manner.

Return of gifts.

(2) If the Gift-tax Officer is of opinion that in respect of the gifts made by a person during any previous year he is liable to gift-tax under this Act, then notwithstanding anything contained in sub-section (1), he may serve a notice upon such person requiring him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner.

(3) The Gift-tax Officer may in his discretion extend the date for the delivery of the return under this section.

Return after  
due date and  
amendment  
of return.

14. If any person has not furnished a return within the time allowed under section 13, or having furnished a return under that section, discovers any omission or a wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

Assessment.

15. (1) If the Gift-tax Officer is satisfied without requiring the presence of the assessee or the production by him of any evidence that a return made under section 13 or section 14 is complete, he shall assess the value of the taxable gifts made by the assessee and determine the amount payable by him as gift-tax.

(2) If the Gift-tax Officer is not so satisfied, he shall serve a notice on the assessee either to attend in person at his office on a date to be specified in the notice or to produce or cause to be produced on that date any evidence on which the assessee may rely in support of his return.

(3) The Gift-tax Officer, after hearing such evidence as the person may produce and such other evidence as he may require on any specified points shall, by order in writing, assess the value of taxable gifts made by the assessee and determine the amount payable by him as gift-tax.

(4) For the purpose of making an assessment under this Act, the Gift-tax Officer may serve on any person who has made a return under sub-section (1) of section 13 or section 14, or upon whom a notice has been served under sub-section (2) of section 13, a notice requiring him to produce or cause to be produced on a date specified in the notice such accounts, records or other documents as the Gift-tax Officer may require.

(5) If any person fails to make a return in response to any notice under sub-section (2) of section 13 or fails to comply with the terms of any notice issued under sub-section (2) or sub-section (4), the Gift-tax Officer shall estimate the value of taxable gifts to the best of his judgment and determine the amount payable by the person as gift-tax.

Gift escaping  
assessment.

16. (1) If the Gift-tax Officer—

(a) has reason to believe that by reason of omission or failure on the part of an assessee to make a return under section 13 for any assessment year or to disclose fully and truly all material facts necessary for his assessment for that year, any taxable gift has escaped assessment for that year, whether



by reason of under-assessment or assessment at too low a rate or otherwise; or

(b) has, in consequence of any information in his possession, reason to believe, notwithstanding that there has been no such omission or failure as is referred to in clause (a), that any taxable gift has escaped assessment for any year, whether by reason of under-assessment or assessment at too low a rate or otherwise;

he may, in cases falling under clause (a) at any time within eight years and in cases falling under clause (b) at any time within four years of the end of that assessment year, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 13, and may proceed to assess or re-assess any taxable gift which has escaped assessment, and the provisions of this Act shall, so far as may be, apply as if the notice had issued under that sub-section.

(2) Nothing contained in this section limiting the time within which any proceedings for assessment or re-assessment may be commenced shall apply to an assessment or re-assessment to be 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 22, section 23, section 24, section 26 or section 28.

17. (1) If the Gift-tax Officer, Appellate Assistant Commissioner, Commissioner or Appellate Tribunal, in the course of any proceedings under this Act, is satisfied that any person—

Penalty for  
default and  
concealment

(a) has without reasonable cause failed to furnish the return which he is required to furnish under sub-section (1) or sub-section (2) of section 13, or section 16 or has without reasonable cause failed to furnish it within the time allowed and in the manner required; or

(b) has without reasonable cause failed to comply with a notice under sub-section (2) or sub-section (4) of section 15; or

(c) has concealed the particulars of any gift or deliberately furnished inaccurate particulars thereof;

he or it may, by order in writing, direct that such person shall pay by way of penalty—

(i) in the case referred to in clause (a), in addition to the amount of gift-tax payable by him, a sum not exceeding one and a half times the amount of such tax, and

(ii) in the case referred to in clause (b) or clause (c), in addition to the amount of gift-tax payable by him, a sum not exceeding one and a half times the amount of the tax, if any, which would have been avoided if the return made by such person under section 13, section 14, or section 16, as the case may be, had been accepted as correct.

(2) No order shall be made under sub-section (1) unless the person concerned has been given a reasonable opportunity of being heard.

(3) No prosecution for an offence under this Act shall be instituted in respect of the same facts in relation to which a penalty has been imposed under this section.

(4) The Gift-tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner of Gift-tax.

Rebate on  
advance  
payments.

18. (1) If a person making a taxable gift of the value of not less than rupees ten thousand pays into the treasury, in the case of a taxable gift made before the 16th day of July, 1958, before the 1st day of August, 1958, and, in the case of any other taxable gift, within fifteen days of his making the gift, an amount calculated in the manner specified in sub-section (2), he shall, at the time of assessment under section 15, be given credit in addition to the amount so paid, for an amount equal to ten per cent. of the amount so paid.

(2) The amount to be paid into the treasury under sub-section (1) shall be—

(a) where the value of the gift does not exceed rupees fifty thousand, four per cent. of the value;

(b) where the value of the gift exceeds rupees fifty thousand but does not exceed rupees two hundred thousand, eight per cent. of the value; and

(c) in any other case, fifteen per cent. of the value.

## CHAPTER V

### LIABILITY TO ASSESSMENT IN SPECIAL CASES

Tax of  
deceased  
person  
payable  
by legal re-  
presentative.

19. (1) Where a person dies, his executor, administrator, or other legal representative shall be liable to pay out of the estate of the deceased person, to the extent to which the estate is capable of meeting the charge, the gift-tax determined as payable by such person, or any sum which would have been payable by him under this Act if he had not died.

(2) Where a person dies without having furnished a return under section 13, or after having furnished a return which the Gift-tax Officer has reason to believe to be incorrect or incomplete, the Gift-tax Officer may make an assessment of the value of the taxable gifts made by such person and determine the gift-tax payable by him, and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the deceased person if he had survived, require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which might, under the provisions of section 15 have been required from the deceased person.

(3) The provisions of sections 13, 14 and 16 shall apply to an executor, administrator or other legal representative as they apply to any person referred to in that section.

20. (1) Where, at the time of making an assessment, it is brought to the notice of the Gift-tax Officer that a partition has taken place among the members of a Hindu undivided family, and the Gift-tax Officer, after enquiry, is satisfied that the joint family property has been partitioned among the various members or groups of members in definite portions, he shall record an order to that effect and he shall make assessments on the amount of taxable gifts made by the family as such as if no partition had taken place and each member or group of members shall be liable jointly and severally for the tax assessed on the value of the taxable gifts made by the joint family as such.

Assessment after partition of a Hindu undivided family.

(2) Where the Gift-tax Officer is not so satisfied, he may, by order, declare that such family shall be deemed for the purposes of this Act to continue to be a Hindu undivided family.

21. (1) Where a firm or association of persons liable to pay gift-tax has been discontinued or dissolved, the Gift-tax Officer shall determine the gift-tax payable by the firm or association of persons as such as if no such discontinuance or dissolution had taken place.

Liability in case of discontinued firm or association of persons.

(2) If the Gift-tax Officer, the Appellate Assistant Commissioner or the Appellate Tribunal in the course of any proceedings under this Act in respect of any such firm or other association of persons as is referred to in sub-section (1) is satisfied that the firm or association is guilty of any of the acts specified in clause (a) or clause (b) or clause (c) of sub-section (1) of section 17, he or it may impose or direct the imposition of a penalty in accordance with the provisions of that section.

(3) Every person who was at the time of such discontinuance or dissolution a partner of the firm or a member of the association, as the case may be, shall be jointly and severally liable for the amount of tax or penalty payable, and all the provisions of Chapter VII, so far as may be, shall apply to any such assessment or imposition of penalty.

## CHAPTER VI

### APPEALS, REVISIONS AND REFERENCES

Appeal to the Appellate Assistant Commissioner from orders of Gift-tax Officers.

22. (1) Any person,—

(a) objecting to the value of his taxable gifts determined under this Act; or

(b) objecting to the amount of gift-tax determined as payable by him under this Act; or

(c) denying his liability to be assessed under this Act; or

(d) objecting to any penalty imposed by the Gift-tax Officer under section 17, or

(e) objecting to any order of the Gift-tax Officer under sub-section (2) of section 20; or

(f) objecting to any penalty imposed by the Gift-tax Officer under sub-section (1) of section 46 of the Income-tax Act as applied under section 33 for the purposes of gift-tax;

may appeal to the Appellate Assistant Commissioner against the assessment or order, as the case may be, in the prescribed form and verified in the prescribed manner:

Provided that no appeal shall lie under clause (f) unless the tax has been paid before the appeal is filed.

(2) An appeal shall be presented within thirty days of the receipt of the notice of demand relating to the assessment or penalty objected to, or the date on which any order objected to, is communicated to him, but the Appellate Assistant Commissioner may admit an appeal after the expiration of the period aforesaid if he is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

(3) The Appellate Assistant Commissioner shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing.

(4) The Appellate Assistant Commissioner may,—

(a) at the hearing of an appeal allow an appellant to go into any ground of appeal not specified in the grounds of appeal;

(b) before disposing of an appeal, make such further inquiry as he thinks fit or cause further inquiry to be made by the Gift-tax Officer.

(5) In disposing of an appeal, the Appellate Assistant Commissioner may pass such order as he thinks fit which may include an order enhancing the amount of gift-tax determined or penalty imposed:

Provided that no order enhancing the amount of gift-tax determined or penalty imposed shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) A copy of every order passed by the Appellate Assistant Commissioner under this section shall be forwarded to the appellant and the Commissioner.

23. (1) Any assessee objecting to an order passed by the Appellate Assistant Commissioner under section 17 or section 22 or to an order passed by the Commissioner under section 17 may appeal to the Appellate Tribunal within sixty days of the date on which he is served with notice of such order. Appeal to the Appellate Tribunal.

(2) The Commissioner may, if he is not satisfied as to the correctness of any order passed by an Appellate Assistant Commissioner under section 22 direct the Gift-tax Officer to appeal to the Appellate Tribunal against such order, and such appeal may be made at any time before the expiry of sixty days of the date on which the order is communicated to the Commissioner.

(3) The Appellate Tribunal may admit an appeal after the expiry of sixty days referred to in sub-sections (1) and (2) if it is satisfied that there was sufficient cause for not presenting it within that period.

(4) 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), be accompanied by a fee of rupees one hundred.

(5) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, and any such orders may include an order enhancing the amount of gift-tax determined or penalty imposed:

Provided that no order enhancing the amount of gift-tax determined or penalty imposed shall be made unless the person

affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) Where the appellant objects to the valuation of any gift, the Appellate Tribunal may, and if the appellant so requires, shall, refer the question of disputed value to the arbitration of two valuers, one of whom shall be nominated by the appellant and the other by the respondent, and the Appellate Tribunal shall, so far as that question is concerned, pass its order under sub-section (5) conformably to the decision of the valuers:

Provided that if there is a difference of opinion between the two valuers, the matter shall be referred to a third valuer nominated by agreement, or failing agreement, by the Appellate Tribunal, and the decision of that valuer on the question of valuation shall be final.

(7) The costs of any arbitration proceeding under sub-section (6) shall be borne by the Central Government or the assessee, as the case may be, at whose instance the question was referred to the valuers:

Provided that where the assessee has been wholly or partially successful in any reference made at his instance, the extent to which the costs shall be borne by the assessee shall be at the discretion of the Appellate Tribunal.

(8) The valuers may, in disposing of any matter referred to them for arbitration under sub-section (6), hold or cause to be held such inquiry as they think fit, and after giving the appellant and the respondent an opportunity of being heard, pass such orders thereon as they think fit and shall send a copy of such order to the Appellate Tribunal.

(9) A copy of every order passed by the Appellate Tribunal under this section shall be forwarded to the assessee and the Commissioner.

(10) Save as provided in section 26, any order passed by the Appellate Tribunal on appeal shall be final.

(11) The provisions of sub-sections (5), (7) and (8) of section 5A of the Income-tax Act shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Income-tax Act.

24. (1) The Commissioner may, either on his own motion or on application made by an assessee in this behalf, call for the record of any proceeding under this Act in which an order has been passed by any authority subordinate to him, and may make such inquiry or cause such inquiry to be made, and, subject to the provisions of this Act, pass such order thereon not being an order prejudicial to the assessee, as the Commissioner thinks fit:

Power or  
Commissioner  
ed to revise  
orders of  
subordinate  
authorities.

Provided that the Commissioner shall not revise any order under this sub-section in any case—

(a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal and the time within which such appeal can be made has not expired or, in the case of the Appellate Tribunal, the assessee has not waived his right of appeal;

(b) where the order is pending in appeal before the Appellate Assistant Commissioner or has been the subject of an appeal to the Appellate Tribunal;

(c) where the application is made by the assessee for such revision unless—

(i) the application is accompanied by a fee of rupees twenty-five; and

(ii) the application is made within one year from the date of the order sought to be revised or within such further period as the Commissioner may think fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within that period; and

(d) where the order is sought to be revised by the Commissioner on his own motion, if such order is made more than one year previously.

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

(a) the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner, and

(b) an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee.

(2) Without prejudice to the provisions contained in sub-section (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 a Gift-tax Officer is erroneous in so far as it is prejudicial to the interests of 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 it and directing a fresh assessment.

(3) No order shall be made under sub-section (2) after the expiry of two years from the date of the order sought to be revised.

Appeal to the Appellate Tribunal from orders of enhancement by commissioner.

25. (1) Any assessee objecting to an order of enhancement made by the Commissioner under section 24 may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.

(2) An appeal to the Appellate Tribunal under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of rupees one hundred.

(3) The provisions of sub-sections (3) and (5) to (10) inclusive of section 23 shall apply in relation to any appeal under this section as they apply in relation to any appeal under that section.

Reference to High Court.

26. (1) Within ninety days of the date upon which he is served with an order under section 23 or section 25, the assessee or the Commissioner may present an application in the prescribed form and where the application is by the assessee, accompanied by a fee of rupees one hundred, to the Appellate Tribunal requiring the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall, if in its opinion, a question of law arises out of such order, state the case for the opinion of the High Court.

(2) An application under sub-section (1) may be admitted after the expiry of the period of ninety days aforesaid if the Appellate Tribunal is satisfied that there was sufficient cause for not presenting it within the said period.

(3) If, on an application made under sub-section (1), the Appellate Tribunal:—

(a) refuses to state a case on the ground that no question of law arises, or

(b) rejects it on the ground that it is time-barred,

the applicant may, within ninety days from the date on which he is served with a notice of refusal or rejection, as the case may be, 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 to the High Court, and on receipt of such requisition the Appellate Tribunal shall state the case:

Provided that, if in any case where the Appellate Tribunal has been required by an assessee to state a case the Appellate Tribunal refuses to do so on the ground that no question of law arises, the assessee may, within thirty days from the date on which he receives notice of refusal to state the case, withdraw his application, and if he does so, the fee paid by him under sub-section (1) shall be refunded to him.

(4) The statement to the High Court shall set forth the facts, the determination of the Appellate Tribunal and the question of law which arises out of the case.

(5) If the High Court is not satisfied that the case as stated is sufficient to enable it to determine the question of law raised thereby it may require the Appellate Tribunal to make such modification therein as it may direct.

(6) The High Court, upon hearing any such case, shall decide the question of law raised therein, and in doing so, may, if it thinks fit, alter the form of the question of law and shall deliver judgment thereon containing the grounds on which such decision is founded and shall send a copy of the judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal and the Appellate Tribunal shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(7) Where the amount of any assessment is reduced as a result of any reference to the High Court, the amount, if any, overpaid as gift-tax shall be refunded with such interest as the Commissioner may allow, unless the High Court, on intimation given by the Commissioner within thirty days of the receipt of the result of such reference that he intends to ask for leave to appeal to the Supreme Court, makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal in the Supreme Court.

(8) The costs of any reference to the High Court shall be in the discretion of the Court.

(9) Section 5 of the Indian Limitation Act, 1908, shall apply to an application to the High Court under this section.

Hearing by  
High Court.

27. When a case has been stated to the High Court under section 26, 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 of such Judges, if any:

Provided that 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 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.

Appeal to  
Supreme  
Court.

28. (1) An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a case stated under section 26 in any case which the High Court certifies as a fit case for appeal to the Supreme Court.

(2) Where the judgment of the High Court is varied or reversed on appeal under this section, effect shall be given to the order of the Supreme Court in the manner provided in sub-section (6) of section 26.

(3) The High Court may, on application made to it for the execution of any order of the Supreme Court in respect of any costs awarded by it, transmit the order for execution to any Court subordinate to the High Court.

## CHAPTER VII

### PAYMENT AND RECOVERY OF GIFT-TAX

Gift-tax  
by whom  
payable.

29. Gift-tax shall be payable by the donor but where in the opinion of the Gift-tax Officer the tax cannot be recovered from the donor, it may be recovered from the donee:

Provided that the amount of the tax which may be recovered from the donee shall not exceed that portion of the gift-tax which is attributable to the value of the gift made to the donee by the donor as at the date of the gift.

Gift-tax to  
be charged  
on property  
gifted.

30. Gift-tax payable in respect of any gift comprising immovable property shall be a first charge on that property but any such charge shall not affect the title of a *bona fide* purchaser for valuable consideration without notice of the charge.

31. When any tax or penalty is due in consequence of any order passed under this Act, the Gift-tax Officer shall serve upon the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable and the time within which it shall be payable. Notice of demand.

32. (1) Any amount specified as payable in a notice of demand issued under section 31 shall be paid within the time, at the place, and to the person mentioned in the notice, or if no time is so mentioned, then on or before the first day of the second month following the date of service of the notice, and any assessee or other person liable to pay the amount failing so to pay shall be deemed to be in default. Recovery of tax and penalties.

(2) Notwithstanding anything contained in this section, where an assessee has presented an appeal under section 22, the Gift-tax Officer may, in his discretion treat the assessee as not being in default as long as such appeal is undisposed of

33. The provisions of sub-sections (1), (1A), (2), (3), (4), (5), (5A), (6) and (7) of section 46 and section 47 of the Income-tax Act shall apply as if the said provisions were provisions of this Act, and referred to gift-tax and sums imposed by way of penalty under this Act instead of to income-tax and sums imposed by way of penalty under that Act, and to Gift-tax Officer and Commissioner of Gift-tax instead of to Income-tax Officer and Commissioner of Income-tax. Mode of recover.

## CHAPTER VIII

### MISCELLANEOUS

34. At any time within four years from the date of any order passed by him, or it, the Gift-tax Officer, the Appellate Assistant Commissioner, the Commissioner and the Appellate Tribunal may, on his, or its, own motion rectify and mistake apparent from the record and shall, within a like period rectify and such mistake which has been brought to the notice of the Gift-tax Officer, the Appellate Assistant Commissioner, the Commissioner or the Appellate Tribunal, as the case may be, by an assessee: Rectification of mistakes.

Provided that no such rectification shall be made which has the effect of enhancing the amount of gift-tax determined unless the assessee has been given a reasonable opportunity of being heard in the matter.

Prosecution.

35. (1) If any person fails without reasonable cause,—

(a) to furnish in due time any return of gift under this Act;

(b) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (2) or sub-section (4) of section 15, such accounts, records and documents as are referred to in the notice;

(c) to furnish within the time specified any statement or information which such person is bound to furnish to the Gift-tax Officer under section 37;

he shall, on conviction before a magistrate, be punishable with fine which may extend to rupees ten for every day during which the default continues.

(2) If a person makes a statement in a verification in any return of gifts furnished under this Act or in a verification mentioned in section 22, 23 or 25 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall on conviction before a magistrate, be punishable with simple imprisonment which may extend to one year, or with fine which may extend to rupees one thousand, or with both.

(3) A person shall not be proceeded against for an offence under this section except at the instance of the Commissioner.

(4) The Commissioner may either before or after the institution of proceedings compound any such offence.

*Explanation.*—For the purposes of this section “magistrate” means a presidency magistrate, a magistrate of the first class or a magistrate of the second class specially empowered by the Central Government to try offences under this Act.

Power to  
take evidence  
on oath, etc.

36. The Gift-tax Officer, the Appellate Assistant Commissioner, the Commissioner and the Appellate Tribunal shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1958, when trying a suit in respect of the following matters, namely:—

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

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses; and any proceeding before the Gift-tax Officer, the Appellate Assistant Commissioner, the Commissioner or the Appellate Tribunal shall

45 of 1860.

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.

37. Where, for the purposes of determining the gift-tax payable by any person, it appears necessary for the Gift-tax Officer to obtain any statement or information from any person, the Gift-tax Officer may serve a notice requiring such person, on or before a date to be therein specified, to furnish such statement or information on the points specified in the notice, and that person shall, notwithstanding anything in any law to the contrary, be bound to furnish such statement or information to the Gift-tax Officer:

Power to call for information.

1 of 1872.

Provided that no legal practitioner shall be bound to furnish any statement or information under this section based on any professional communications made to him otherwise than as permitted by section 126 of the Indian Evidence Act, 1872.

38. Whenever in respect of any proceeding under this Act any Gift-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises such jurisdiction, the authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor.

Effect of transfer of authorities on pending proceedings.

39. In computing the period of limitation, prescribed for an appeal under this Act or for an application under section 26, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

Computation of period of limitation.

6 of 1908.

40. (1) A notice or a requisition under this Act may be served on the person therein named either by post or as if it were summons issued by a court under the Code of Civil Procedure, 1908.

Service of notice.

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family be addressed to any member of the firm or to the manager or any adult male member of the family, and in the case of a company or association of persons be addressed to the principal officer thereof.

41. (1) Subject to the provisions contained in sub-section (2), the provisions of section 54 of the Income-tax Act shall apply to all accounts or in relation to statements, documents, evidence or affidavits given, produced or obtained in connection with or in the course of any proceeding under this Act as they apply to or in relation to similar particulars under that Act subject to the modification that

Prohibition of disclosure of information.

the reference to any "Income-tax authority" in clause (d) of sub-section (3) and to the "Commissioner" in sub-section (5) of section 54 of that Act shall be construed as a reference to any "Gift-tax authority" and to the "Commissioner of Gift-tax", respectively.

(2) Nothing contained in section 54 of the Income-tax Act shall apply to the disclosure of any such particulars as are referred to in sub-section (1) to any person acting in the execution of this Act or the Income-tax Act, or the Estate Duty Act, 1953, or the Wealth-tax Act, 1957, or the Expenditure-tax Act, 1957, where it is necessary or desirable to disclose the same to him for the purposes of this Act or any of the other Acts aforesaid. 34 of 1953.  
27 of 1957.  
29 of 1957.

Bar of suits  
in civil  
court.

42. No suit shall lie in any civil court to set aside or modify any assessment made under this Act, and no prosecution, suit or other legal proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act.

Appearance  
before Gift-  
tax authori-  
ties by au-  
thorised  
representa-  
tives.

43. Any assessee who is entitled to or required to attend before any Gift-tax authority or the Appellate Tribunal in connection with any proceeding or inquiry under this Act, except where he is required under this Act, to attend in person, may attend by a person authorised by him in writing in this behalf, being a relative of, or a person regularly employed by, the assessee or a legal practitioner or a chartered accountant or any other person having such qualifications as may be prescribed.

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

(a) the expression "a person regularly employed by the assessee" includes any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings;

(b) "chartered accountant" means a chartered accountant as defined in the Chartered Accountants Act, 1949. 38 of 1949.

Agreement  
for avoid-  
ance or  
relief of  
double tax-  
ation with  
respect to  
gift-tax.

44. The Central Government may enter into any agreement with the Government of any reciprocating country for the avoidance or relief of double taxation with respect to gift-tax payable under this Act and under the corresponding law in force in the reciprocating country and may, by notification in the Official Gazette, make such provision as may be necessary for implementing the agreement.

*Explanation.*—The expression "reciprocating country" for the purposes of this Act means any country which the Central Government may, by notification in the Official Gazette, declare to be a reciprocating country.

45. The provisions of this Act shall not apply to gifts made by—

(a) a Government company as defined in section 617 of the Companies Act, 1956;

Act not to apply in certain cases.

(b) a corporation established by a Central, State or Provincial Act;

(c) any company (other than a private company as defined in section 3 of the Companies Act, 1956):

Provided that the affairs of the company or the shares in the company carrying more than fifty per cent. of the total voting power were at no time during the previous year controlled or held by less than six persons;

(d) a company which is a subsidiary of and in which more than half the nominal value of equity share capital is held by a company referred to in clause (c);

(e) any institution or fund the income whereof is exempt from income-tax under clause (i) of sub-section (3) of section 4 of the Income-tax Act.

*Explanation.*—For the purpose of computing the number of six persons referred to in the proviso to clause (c), persons who are related to one another as husband and wife, brother and sister, brothers, sisters or who are lineal descendants or ascendants of one another and persons who are nominees of any other person together with that other person shall be treated as a single person.

46. (1) The Board may, 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, rules made under this section may provide for—

(a) the manner in which the value of any property may be determined;

(b) the form in which returns under this Act shall be made and the manner in which they shall be verified;

(c) the form in which appeals and applications under this Act may be made, and the manner in which they shall be verified;

(d) the form of any notice of demand under this Act;

(e) the refunds of gift-tax paid in respect of gifts which are revoked on the happening of any specified event which does

not depend on the will of the donor or of any amount paid under section 18;

(f) the areas for which lists of valuers may be drawn up;

(g) any other matter which has to be, or may be, prescribed for the purposes of this Act.

(3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date of commencement of this Act.

(4) All rules made under this Act shall be laid before each House of Parliament as soon as may be after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

#### THE SCHEDULE

(See section 3)

#### RATES OF GIFT TAX

	<i>Rate of gift tax</i>
(1) On the first Rs. 50,000 of the value of all taxable gifts	4%
(2) On the next Rs. 50,000 of the value of all taxable gifts	6%
(3) On the next Rs. 50,000 of the value of all taxable gifts	8%
(4) On the next Rs. 50,000 of the value of all taxable gifts	10%
(5) On the next Rs. 1,00,000 of the value of all taxable gifts	12%
(6) On the next Rs. 2,00,000 of the value of all taxable gifts	15%
(7) On the next Rs. 5,00,000 of the value of all taxable gifts	20%
(8) On the next Rs. 10,00,000 of the value of all taxable gifts	25%
(9) On the next Rs. 10,00,000 of the value of all taxable gifts	30%
(10) On the next Rs. 20,00,000 of the value of all taxable gifts	35%
(11) On the balance of the value of all taxable gifts	40%



Rep. by Act 58 of 1958 (W. C. 12-60)

THE INDIAN STAMP (AMENDMENT) ACT, 1958

No. 19 OF 1958

[15th May, 1958]

An Act further to amend the Indian Stamp Act, 1899.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Stamp (Amendment) Act, 1958. 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.

2. In clause (a) of section 11 of the Indian Stamp Act, 1899 Amendment of section 11. (hereinafter referred to as the principal Act), for the words "with the duty of one anna or half an anna", the words "with a duty not exceeding ten naye paise" shall be substituted.

3. In sub-section (1) of section 31 of the principal Act, for the words "eight annas", the words "fifty naye paise" shall be substituted. Amendment of section 31.

4. In sub-section (3) of section 32 of the principal Act, in clause (c) of the proviso; for the words "with the duty of one anna or half an anna", the words "with a duty not exceeding ten naye paise" shall be substituted. Amendment of section 32.

5. In section 34 of the principal Act, for the words "with a duty of one anna"; the words "with a duty not exceeding ten naye paise" shall be substituted. Amendment of section 34.

6. In clause (a) of the proviso to section 35, sub-section (1) of section 40 and section 41 of the principal Act, for the words "with a duty of one anna or half an anna" wherever they occur, the words "with a duty not exceeding ten naye paise" shall be substituted. Amendment of sections 35, 40 and 41.

7. In section 47 of the principal Act, for the words "with the duty of one anna", the words "with a duty not exceeding ten naye paise" shall be substituted. Amendment of section 47.

8. In clause (c) of section 53 and section 54 of the principal Act, for the words "one anna" wherever they occur, the words "ten naye paise" shall be substituted. Amendment of sections 53 and 54.

Insertion of new section 54A. 9. After section 54 of the principal Act, the following section shall be inserted, namely:—

Allowances for stamps in denominations of annas.

“54A. Notwithstanding anything contained in section 54, when any person is possessed of a stamp or stamps in any denominations, other than in denominations of annas four or multiples thereof and such stamp or stamps has or have not been spoiled, the Collector shall repay to such person the value of such stamp or stamps in money calculated in accordance with the provisions of sub-section (2) of section 14 of the Indian Coinage Act, 1906, upon such person delivering up, within six months from the commencement of the Indian Stamp (Amendment) Act, 1958, such stamp or stamps to the Collector.”

Amendment of sections 69 and 74. 10. In clause (b) of section 69 and the proviso to section 74, for the words “one anna or half an anna” wherever they occur, the words “ten naye paise or five naye paise” shall be substituted.

Insertion of new section 77A. 11. After section 77 of the principal Act, the following section shall be inserted, namely:—

Saving as to certain stamps.

“77A. All stamps in denominations of annas four or multiples thereof shall be deemed to be stamps of the value of twenty-five naye paise or, as the case may be, multiples thereof and shall, accordingly, be valid for all the purposes of this Act.”

Amendment of section 78. 12. In section 78 of the principal Act, for the words “four annas”, the words “twenty-five naye paise” shall be substituted.

Amendment of Schedule I. 13. In Schedule I to the principal Act, in entries 13, 14, 27, 37, 47, 49, 52, 53 and 62, for the words, letters and figures “half an anna”, “one anna”, “two annas”, “three annas”, “four annas”, “six annas”, “eight annas”, “twelve annas”, and “Rs. 2-8-0”, wherever they occur, the words, letters and figures “five naye paise”, “ten naye paise”, “fifteen naye paise”, “twenty naye paise”, “twenty-five naye paise”, “forty naye paise”, “fifty naye paise”, “seventy-five naye paise” and “Rs. 2.50”, respectively, shall be substituted.

Not Corrected. See India Code vol IV B Pt II P. 731

## THE PROBATION OF OFFENDERS ACT, 1958

No. 20 OF 1958

[16th May, 1958]

An Act to provide for the release of offenders on probation or after due admonition and for matters connected therewith.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Probation of Offenders Act, 1958.

Short title  
extent and  
commence-  
ment.

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

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

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

Definitions.

(a) "Code" means the Code of Criminal Procedure, 1898;

(b) "probation officer" means an officer appointed to be a probation officer or recognised as such under section 13;

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

(d) words and expressions used but not defined in this Act and defined in the Code of Criminal Procedure, 1898, shall have the meanings respectively assigned to them in that Code.

3. When any person is found guilty of having committed an offence punishable under section 379 or section 380 or section 381 or section 404 or section 420 of the Indian Penal Code or any offence punishable with imprisonment for not more than two years, or with fine, or with both, under the Indian Penal Code or any other law, and no previous conviction is proved against him and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient so to do, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him to any punishment or releasing him on probation of good conduct under section 4, release him after due admonition.

Power of  
court to  
release  
certain  
offenders  
after ad-  
monition.

*Explanation.*—For the purposes of this section, previous conviction against a person shall include any previous order made against him under this section or section 4.

Power of court to release certain offenders on probation of good conduct.

4. (1) When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that the court shall not direct such release of an offender unless it is satisfied that the offender, or his surety, if any, has a fixed place of abode or regular occupation in the place over which the court exercises jurisdiction or in which the offender is likely to live during the period for which he enters into the bond.

(2) Before making any order under sub-section (1), the court shall take into consideration the report, if any, of the probation officer concerned in relation to the case.

(3) When an order under sub-section (1) is made, the court may, if it is of opinion that in the interests of the offender and of the public it is expedient so to do, in addition pass a supervision order directing that the offender shall remain under the supervision of a probation officer named in the order during such period, not being less than one year, as may be specified therein, and may in such supervision order impose such conditions as it deems necessary for the due supervision of the offender.

(4) The court making a supervision order under sub-section (3) shall require the offender, before he is released, to enter into a bond, with or without sureties, to observe the conditions specified in such order and such additional conditions with respect to residence, abstention from intoxicants or any other matter as the court may, having regard to the particular circumstances, consider fit to impose for preventing a repetition of the same offence or a commission of other offences by the offender.

(5) The court making a supervision order under sub-section (3) shall explain to the offender the terms and conditions of the order

and shall forthwith furnish one copy of the supervision order to each of the offenders, the sureties, if any, and the probation officer concerned.

5. (1) The court directing the release of an offender under section 3 or section 4, may, if it thinks fit, make at the same time a further order directing him to pay—

Power of court to require released offenders to pay compensation and costs.

(a) such compensation as the court thinks reasonable for loss or injury caused to any person by the commission of the offence; and

(b) such costs of the proceedings as the court thinks reasonable.

(2) The amount ordered to be paid under sub-section (1) may be recovered as a fine in accordance with the provisions of sections 386 and 387 of the Code.

(3) A civil court trying any suit arising out of the same matter for which the offender is prosecuted, shall take into account any amount paid or recovered as compensation under sub-section (1) in awarding damages.

6. (1) When any person under twenty-one years of age is found guilty of having committed an offence punishable with imprisonment (but not with imprisonment for life), the court by which the person is found guilty shall not sentence him to imprisonment unless it is satisfied that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it would not be desirable to deal with him under section 3 or section 4, and if the court passes any sentence of imprisonment on the offender, it shall record its reasons for doing so.

Restrictions on imprisonment of offenders under twenty-one years of age.

(2) For the purpose of satisfying itself whether it would not be desirable to deal under section 3 or section 4 with an offender referred to in sub-section (1), the court shall call for a report from the probation officer and consider the report, if any, and any other information available to it relating to the character and physical and mental condition of the offender.

7. The report of a probation officer referred to in sub-section (2) of section 4 or sub-section (2) of section 6 shall be treated as confidential:

Report of Probation officer to be confidential.

Provided that the court may, if it so thinks fit, communicate the substance thereof to the offender and may give him an opportunity of producing such evidence as may be relevant to the matter stated in the report.

Variation of conditions of probation.

8. (1) If, on the application of a probation officer, any court which passes an order under section 4 in respect of an offender is of opinion that in the interests of the offender and the public it is expedient or necessary to vary the conditions of any bond entered into by the offender, it may, at any time during the period when the bond is effective, vary the bond by extending or diminishing the duration thereof so, however, that it shall not exceed three years from the date of the original order or by altering the conditions thereof or by inserting additional conditions therein:

Provided that no such variation shall be made without giving the offender and the surety or sureties mentioned in the bond an opportunity of being heard.

(2) If any surety refuses to consent to any variation proposed to be made under sub-section (1), the court may require the offender to enter into a fresh bond and if the offender refuses or fails to do so, the court may sentence him for the offence of which he was found guilty.

(3) Notwithstanding anything hereinbefore contained, the court which passes an order under section 4 in respect of an offender may, if it is satisfied on an application made by the probation officer, that the conduct of the offender has been such as to make it unnecessary that he should be kept any longer under supervision, discharge the bond or bonds entered into by him.

Procedure in case of offender failing to observe conditions of bond.

9. (1) If the court which passes an order under section 4 in respect of an offender or any court which could have dealt with the offender in respect of his original offence has reason to believe, on the report of a probation officer or otherwise, that the offender has failed to observe any of the conditions of the bond or bonds entered into by him, it may issue a warrant for his arrest or may, if it thinks fit, issue a summons to him and his sureties, if any, requiring him or them to attend before it at such time as may be specified in the summons.

(2) The court before which an offender is so brought or appears may either remand him to custody until the case is concluded or it may grant him bail, with or without surety, to appear on the date which it may fix for hearing.

(3) If the court, after hearing the case, is satisfied that the offender has failed to observe any of the conditions of the bond or bonds entered into by him, it may forthwith—

(a) sentence him for the original offence, or

(b) where the failure is for the first time, then, without prejudice to the continuance in force of the bond, impose upon him a penalty not exceeding fifty rupees.

(4) If a penalty imposed under clause (b) of sub-section (3) is not paid within such period as the court may fix, the court may sentence the offender for the original offence.

10. The provisions of sections 122, 126, 126A, 406A, 514, 514A, 514B and 515 of the Code shall, so far as may be, apply in the case of bonds and sureties given under this Act. Provision as to sureties.

11. (1) Notwithstanding anything contained in the Code or any other law, an order under this Act may be made by any court empowered to try and sentence the offender to imprisonment and also by the High Court or any other court when the case comes before it on appeal or in revision. Courts competent to make order under the Act, appeal and revision and powers of courts in appeal and revision.

(2) Notwithstanding anything contained in the Code, where an order under section 3 or section 4 is made by any court trying the offender (other than a High Court), an appeal shall lie to the court to which appeals ordinarily lie from the sentences of the former court.

(3) In any case where any person under twenty-one years of age is found guilty of having committed an offence and the court by which he is found guilty declines to deal with him under section 3 or section 4, and passes against him any sentence of imprisonment with or without fine from which no appeal lies or is preferred, then, notwithstanding anything contained in the Code or any other law, the court to which appeals ordinarily lie from the sentences of the former court may, either of its own motion or on an application made to it, by the convicted person or the probation officer, call for and examine the record of the case and pass such order thereon as it thinks fit.

(4) When an order has been made under section 3 or section 4 in respect of an offender, the Appellate Court or the High Court in the exercise of its power of revision may set aside such order and in lieu thereof pass sentence on such offender according to law.

Provided that the Appellate Court or the High Court in revision shall not inflict a greater punishment than might have been inflicted by the court by which the offender was found guilty.

12. Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of section 3 or section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law. Removal of disqualification attaching to conviction.

Provided that nothing in this section shall apply to a person who, after his release under section 4, is subsequently sentenced for the original offence.

Probation officers.

13. (1) A probation officer under this Act shall be—

(a) a person appointed to be a probation officer by the State Government or recognised as such by the State Government; or

(b) a person provided for this purpose by a society recognised in this behalf by the State Government; or

(c) in any exceptional case, any other person who, in the opinion of the court, is fit to act as a probation officer in the special circumstances of the case.

(2) A court which passes an order under section 4 or the district magistrate of the district in which the offender for the time being resides may, at any time, appoint any probation officer in the place of the person named in the supervision order.

Explanation.—For the purposes of this section, a presidency town shall be deemed to be a district and chief presidency magistrate shall be deemed to be the district magistrate of that district.

(3) A probation officer, in the exercise of his duties under this Act, shall be subject to the control of the district magistrate of the district in which the offender for the time being resides.

Duties of probation officers.

14. A probation officer shall, subject to such conditions and restrictions as may be prescribed,—

(a) inquire, in accordance with any directions of a court, into the circumstances or home surroundings of any person accused of an offence with a view to assist the court in determining the most suitable method of dealing with him and submit reports to the court;

(b) supervise probationers and other persons placed under his supervision and where necessary, endeavour to find them suitable employment;

(c) advise and assist offenders in the payment of compensation or costs ordered by the court;

(d) advise and assist, in such cases and in such manner as may be prescribed, persons who have been released under section 4; and

(e) perform such other duties as may be prescribed.

Probation officers to be public servants.

15. Every probation officer and every other officer appointed in pursuance of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.



**Not Corrected: See India Code**

of 1958]

*Probation of Offenders*

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16. No suit or other legal proceeding shall lie against the State Government or any probation officer or any other officer appointed under this Act in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

Protection of action taken in good faith.

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

Power to make rules.

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

(a) appointment of probation officers, the terms and conditions of their service and the area within which they are to exercise jurisdiction;

(b) duties of probation officers under this Act and the submission of reports by them;

(c) the conditions on which societies may be recognised for the purposes of clause (b) of sub-section (1) of section 13;

(d) the payment of remuneration and expenses to probation officers or of a subsidy to any society which provides probation officers; and

(e) any other matter which is to be, or may be, prescribed.

(3) All rules made under this section shall be subject to the condition of previous publication and shall, as soon as may be after they are made, be laid before the State Legislature.

18. Nothing in this Act shall affect the provisions of section 31 of the Reformatory Schools Act, 1897, or sub-section (2) of section 5 of the Prevention of Corruption Act, 1947 or the Suppression of Immoral Traffic in Women and Girls Act, 1956, or of any law in force in any State relating to juvenile offenders or borstal schools.

8 of 1897.

2 of 1947.

104 of 1956.

Saving of operation of certain enactments.

19. Subject to the provisions of section 18, section 562 of the Code shall cease to apply to the States or parts thereof in which this Act is brought into force.

Section 562 of the Code not to apply in certain areas.

**Not Corrected: See India Code**

## THE RICE-MILLING INDUSTRY (REGULATION) ACT, 1958

### ARRANGEMENT OF SECTIONS

#### Sections

1. Short title, extent and commencement.
2. Declaration as to expediency of control by the Union.
3. Definitions.
4. Appointment of licensing officers.
5. Grant of permits in respect of new or defunct rice mills.
6. Grant of licences.
7. Revocation, suspension and amendment of licences.
8. Certain restrictions on rice mills.
9. Power of inspection.
10. Decision of Central Government final respecting certain matters.
11. Returns.
12. Appeals.
13. Penalties.
14. Offences by companies.
15. Cognizance of offences.
16. Jurisdiction of courts.
17. Special provision regarding fines.
18. Power to exempt in special cases.
19. Delegation of powers.
20. Licensing officers, etc., to be public servants.
21. Protection of action taken under the Act.
22. Power to make rules.
23. Application of other laws not barred.
24. Act not to apply to rice mills owned by Government.
25. Repeal and savings.

Not Corrected: See India Code Vol. 10 A I

## THE RICE-MILLING INDUSTRY (REGULATION) ACT, 1958

No. 21 of 1958

[18th May, 1958]

An Act to regulate the rice-milling industry in the interests of the general public.

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

1. (1) This Act may be called the Rice-Milling Industry (Regulation) Act, 1958.

Short title, extent and commencement.

(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.

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

Declaration as to expediency of control by the Union.

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

Definitions.

(a) "defunct rice mill" means a rice mill in existence at the commencement of this Act but in which rice-milling operations have not been carried on for a period exceeding one year prior to such commencement;

(b) "existing rice mill" means a rice mill carrying on rice-milling operations at the commencement of this Act, and includes a rice mill in existence at such commencement which is not carrying on rice-milling operations but in which rice-milling operations have been carried on at any time within a period of one year prior to such commencement;

(c) "licensing officer" means an officer appointed as such under section 4;

(d) "milling rice", with its grammatical variations, means recovering rice or any product thereof from paddy with the aid of power;

(e) "new rice mill" means a rice mill other than an existing rice mill or a defunct rice mill;

(f) "notified order" means an order notified in the Official Gazette;

(g) "owner", in relation to a rice mill, means the person who, or the authority which, has the ultimate control over the affairs of the rice mill, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent shall be deemed to be the owner of the rice mill;

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

(i) "rice mill" means the plant and machinery with which, and the premises, including the precincts thereof, in which or in any part of which, rice-milling operation is carried on.

Appointment of licensing officers.

4. The Central Government may, by notified order,—

(a) appoint such persons, being gazetted officers of Government, as it thinks fit to be licensing officers for the purposes of this Act, and

(b) define the limits within which a licensing officer shall exercise the powers conferred on licensing officers by or under this Act.

Grant of permits respect new or defunct rice mills.

5. (1) Any person or authority may make an application to the Central Government for the grant of a permit for the establishment of a new rice mill; and any owner of a defunct rice mill may make a like application for the grant of a permit for re-commencing rice-milling operation in such mill.

(2) Every application under sub-section (1) shall be made in the prescribed form and shall contain the particulars regarding the location of the rice mill, the size and type thereof and such other particulars as may be prescribed.

(3) If, on receipt of any such application for the grant of a permit, the Central Government is of opinion that it is necessary so to do for ensuring adequate supply of rice, it may, subject to the provisions of sub-section (4) and sub-section (5), grant the permit specifying therein the period within which the mill is to be established or, as the case may be, the mill is to re-commence rice-milling operation and such other conditions as it may think fit to impose, in accordance with the rules, if any, made in this behalf.

Not Corrected: See India Code

of 1958]

Rice-Milling Industry (Regulation)

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(4) Before granting any permit under sub-section (3), the Central Government shall cause a full and complete investigation to be made in the prescribed manner in respect of the application and shall have due regard to—

- (a) the number of rice-mills operating in the locality;
- (b) the availability of paddy in the locality;
- (c) the availability of power and water supply for the rice mill in respect of which a permit is applied for;
- (d) whether the rice mill in respect of which a permit is applied for will be of the huller type, sheller type or combined sheller-huller type;
- (e) whether the functioning of the rice mill in respect of which a permit is applied for would cause substantial unemployment in the locality;
- (f) such other particulars as may be prescribed.

(5) In granting a permit under this section, the Central Government shall give preference to a defunct rice mill over a new rice mill.

(6) A permit granted under this section shall be effective for the period specified therein or for such extended period as the Central Government may think fit to allow in any case.

(7) (1) Any owner of an existing rice mill or of a rice mill in respect of which a permit has been granted under section 5 may make an application to the licensing officer for the grant of a licence for carrying on rice-milling operation in that rice mill.

Grant of licences.

(2) Every application under sub-section (1) shall be made in the prescribed form and shall contain the particulars regarding the location of the rice mill, the size and type thereof and such other particulars as may be prescribed.

(3) On receipt of any such application for the grant of a licence, the licensing officer shall grant the licence on such conditions (including, in particular, conditions relating to the polishing of rice), on payment of such fees and on the deposit of such sum, if any, as security for the due performance of the conditions as may be prescribed.

(4) A licence granted under this section shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fees and on such conditions as may be prescribed.

Revocation,  
suspension  
and amend-  
ment of  
licences.

7. (1) If the licensing officer is satisfied, either on a reference made to him in this behalf or otherwise, that—

(a) a licence granted under section 6 has been obtained by misrepresentation as to an essential fact, or

(b) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder,

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity of showing cause, revoke or suspend the licence or forfeit the sum, if any, or any portion thereof deposited as security for the due performance of the conditions subject to which the licence has been granted.

(2) Subject to any rules that may be made in this behalf, the licensing officer may also vary or amend a licence granted under section 6.

Certain  
restrictions  
on rice mills.

8. (1) No person or authority shall, after the commencement of this Act, establish any new rice mill except under and in accordance with a permit granted under section 5.

(2) No owner of a rice mill shall, after the commencement of this Act, carry on rice-milling operation except under and in accordance with a licence granted under section 6:

Provided that nothing in this sub-section shall apply to an existing rice mill for such period as may be specified in this behalf by the Central Government by notified order.

(3) No owner of a rice mill,—

(a) in respect of which a licence has been granted under section 6, shall carry on rice-milling operation in that mill after the expiry of the period of the validity of the licence;

(b) in respect of which the licence has been revoked or suspended under section 7, shall carry on rice-milling operation in that mill after the revocation or, as the case may be, during the period for which the licence has been suspended

(c) shall, without the previous permission of the Central Government, change the location of the whole or any part of the rice mill in respect of which a licence has been granted under section 6;

(d) shall, after the commencement of this Act, effect any expansion of the rice mill except with the previous permission of the Central Government:

Provided that no such permission shall be necessary for the replacement of any parts of the machinery of the rice mill where such replacement does not result in an increase in the productive capacity of the rice mill.

*Explanation.*—For the purposes of clause (a) of this sub-section, the period of the validity of a licence shall not be deemed to have expired, if an application for its renewal is pending before the licensing officer.

9. For the purpose of ascertaining the position or examining the working of any rice mill or for any other purpose mentioned in this Act or the rules made thereunder, the licensing officer or any person authorised by the Central Government in this behalf shall have the right—

Power of inspection.

- (a) to enter and inspect any rice mill;
- (b) to order the production of any document, book, register or record in the possession or power of any person having the control of, or employed in connection with, any rice mill; and
- (c) to examine any person having the control of, or employed in connection with, any rice mill.

10. If, for the purposes of this Act, any question arises as to whether—

Decision of Central Government final respecting certain matters.

- (a) there has been an expansion of a rice mill, or
- (b) the replacement of any parts of the machinery of a rice mill has resulted in an increase in the productive capacity of the rice mill,

the Central Government may, after giving the owner of the rice mill an opportunity of being heard, decide the question and the decision of the Central Government thereon shall be final.

11. Every owner of a rice mill shall furnish to the Central Government such returns relating to the affairs of the rice mill and in such forms as may be prescribed.

Returns.

12. (1) Any person aggrieved by a decision of a licensing officer under section 6 or section 7 may, within thirty days from the date on which the decision is communicated to him, prefer an appeal to an appellate officer who shall be a person nominated in this behalf by the Central Government:

Appeals.

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

## Penalties.

13. (1) If any person contravenes or attempts to contravene or abets the contravention of any of the provisions of section 8 or sub-section (2) of section 18, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) If any person,—

(a) when required by this Act or by any order under this Act to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reason to believe to be false or does not believe to be true, or

(b) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required to maintain or furnish under this Act, or

(c) contravenes any rule the contravention of which is made punishable under this sub-section,

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

## Offences by companies.

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

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.



Not Corrected: See India Code

of 1938]

(continued) Rice-Milling Industry (Regulation)

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

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

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

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

15. No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by the licensing officer or any person duly authorised by the Central Government or the licensing officer in this behalf.

16. No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

5 of 1898.

17. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any magistrate of the first class or for any presidency magistrate to pass a sentence of fine exceeding two thousand rupees on any person convicted of any offence under this Act.

18. (1) If the Central Government is of opinion, having regard to the necessity for ensuring an adequate supply of rice in any area or to the conditions prevailing therein, that it would not be in the public interest to apply all or any of the provisions of this Act to the rice mills or to any class of rice mills in that area, it may, by notified order, exempt for such period and subject to such conditions as it may think fit to impose, all the rice mills or such class of rice mills in that area as it may specify in the order from the operation of all or any of the provisions of this Act or of any rule or order made thereunder.

(2) Where any notified order under sub-section (1) granting an exemption is cancelled, no owner of a rice mill shall carry on rice-milling operation in that rice mill after the expiry of such period as may be specified in the order cancelling the exemption, except under and in accordance with a licence granted to him under section 6.

Delegation  
of powers.

19. The Central Government may, by notified order, direct that any power exercisable by it under this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by—

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or such officer or authority subordinate to a State Government,

as may be specified in the direction.

Licensing  
officers, etc.,  
to be public  
servants.

20. The licensing officers and every person duly authorised to discharge any duties imposed on him by this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

of 1860.

Protection of  
action taken  
under the  
Act.

21. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government 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 or any rule or order made thereunder.

Power to  
make rules.

22. (1) The Central Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

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

(a) the form of application for the grant of a permit under section 5 and the particulars it may contain;

(b) the manner in which an investigation is to be made in respect of an application for a permit and the matters to be taken into account in granting or refusing a permit;

(c) the form of application for the grant or renewal of a licence in respect of a rice mill and the particulars it may contain;

(d) the form of a licence which may be granted or renewed under section 6 and the conditions subject to which the licence may be granted or renewed, including conditions relating to the polishing of rice, the fees to be levied for the grant or renewal of a licence and the deposit of any sum as security for the performance of such conditions.

(e) the circumstances under which licences may be varied or amended under sub-section (2) of section 7;

(f) the submission of returns relating to a rice mill by the owner and the forms in which, and the authorities to which, such returns may be submitted; and the collection of any information or statistics in relation to rice mills;

(g) the form and manner in which appeals may be filed under section 12 and the procedure to be followed by appellate officers in disposing of the appeals;

(h) any other matter which has to be, or may be, prescribed under this Act.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable under sub-section (2) of section 13.

(4) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as possible after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

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

Application of other laws not barred.

24. The provisions of this Act shall not apply to any rice mill owned by Government.

Act not to apply to rice mills owned by Government.

25. (1) If, immediately before the commencement of this Act, there is in force in any State to which this Act extends any law or order relating to the regulation or control of rice mills in that State, that law or order shall stand repealed.

Repeal and savings.

(2) Notwithstanding such repeal, any certificate of registration, permit or licence granted in respect of any existing rice mill, under any such law or order hereby repealed and in force immediately before the commencement of this Act, shall continue to be in force for such period as may be allowed under the proviso to sub-section (2) of section 8 for the licensing of such rice mill under the provisions of this Act, and for the removal of doubts, it is hereby declared that the provisions of section 6 of the General Clauses Act, 1897, shall apply in relation to such repeal, as they apply in relation to the repeal of an enactment by a Central Act.

10 of 1897.

S. 24. Sec. 1 (w.e.d. 26.12.60)

THE EMPLOYEES' PROVIDENT FUNDS (AMENDMENT)  
ACT, 1958

No. 22 of 1958

[18th May, 1958]

An Act further to amend the Employees' Provident Funds  
Act, 1952.

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

Short title.

1. This Act may be called the Employees' Provident Funds  
(Amendment) Act, 1958.

Amendment  
of section 2.

2. In section 2 of the Employees' Provident Funds Act, 1952<sup>19</sup> of 1952,  
(hereinafter referred to as the principal Act), for clause (a), the  
following clause shall be substituted, namely:—

“(a) “appropriate Government” means—

(i) in relation to an establishment belonging to, or  
under the control of, the Central Government or in relation  
to an establishment connected with a railway company, a  
major port, a mine or an oil field or a controlled industry,  
the Central Government; and

(ii) in relation to any other establishment, the State  
Government;”

Amendment  
of section 16.

3. In section 16 of the principal Act, for sub-section (1), the  
following sub-section shall be substituted, namely:—

“(1) This Act shall not apply to any establishment until the  
expiry of three years from the date on which the establishment  
is, or has been, set up.

*Explanation.*—For the removal of doubts, it is hereby  
declared that an establishment shall not be deemed to be  
newly set up merely by reason of a change in its location.”

THE APPROPRIATION (RAILWAYS) No. 3 ACT, 1958

No. 23 OF 1958

[28th August, 1958]

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, 1955, in excess of the amounts granted for those services and for that year.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (Railways) No. 3 Act, 1958. **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 eight crores, ninety-one lakhs, twenty-nine thousand, four hundred and forty-five 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, 1955, in excess of the amounts granted for those services and for that year. **Issue of Rs. 8,91,29,445 out of the Consolidated Fund of India to meet certain excess expenditure for the year ended on the 31st March, 1955.**

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, 1955. **Appropriation.**

THE SCHEDULE  
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 - Sums aggregating to		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
4	Revenue—Working Expenses— Administration	9,79,263	..	9,79,263
5	Revenue—Working Expenses—Repairs and Maintenance	1,67,38,177	..	1,67,38,177
6	Revenue—Working Expenses—Operat- ing Staff	53,01,078	..	53,01,078
7	Revenue—Working Expenses— Operation (Fuel)	71,73,430	..	71,73,430
9A	Revenue—Working Expenses—Labour Welfare	2,11,315	..	2,11,315
13	Appropriation to Development Fund	2,53,03,759	..	2,53,03,759
17	Open Line Works—Replacements	2,71,02,416	..	2,71,02,416
18	Open Line Works—Development Fund	63,20,007	..	63,20,007
	GRAND TOTAL	8,91,29,445	..	8,91,29,445

## THE ANCIENT MONUMENTS AND ARCHÆOLOGICAL SITES AND REMAINS ACT, 1958

### ARRANGEMENT OF SECTIONS

#### PRELIMINARY

#### SECTIONS

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

#### ANCIENT MONUMENTS AND ARCHÆOLOGICAL SITES AND REMAINS OF NATIONAL IMPORTANCE

3. Certain ancient monuments, etc., deemed to be of national importance.
4. Power of Central Government to declare ancient monuments, etc., to be of national importance.

#### PROTECTED MONUMENTS

5. Acquisition of rights in a protected monument.
6. Preservation of protected monument by agreement.
7. Owners under disability or not in possession.
8. Application of endowment to repair a protected monument.
9. Failure or refusal to enter into an agreement.
10. Power to make order prohibiting contravention of agreement under section 6.
11. Enforcement of agreements.
12. Purchasers at certain sales and persons claiming through owner bound by instrument executed by owner.
13. Acquisition of protected monuments.
14. Maintenance of certain protected monuments.
15. Voluntary contributions.
16. Protection of place of worship from misuse, pollution or desecration.
17. Relinquishment of Government rights in a monument.
18. Right of access to protected monuments.

## PROTECTED AREAS

## SECTIONS

19. Restrictions on enjoyment of property rights in protected areas.
20. Power to acquire a protected area.

## ARCHAEOLOGICAL EXCAVATIONS

21. Excavations in protected areas.
22. Excavations in areas other than protected areas.
23. Compulsory purchase of antiquities, etc., discovered during excavation operations.
24. Excavations, etc., for archaeological purposes.

## PROTECTION OF ANTIQUITIES

25. Power of Central Government to control moving of antiquities.
26. Purchase of antiquities by Central Government.

## PRINCIPLES OF COMPENSATION

27. Compensation for loss or damage.
28. Assessment of market value or compensation.

## MISCELLANEOUS

29. Delegation of powers.
30. Penalties.
31. Jurisdiction to try offences.
32. Certain offences to be cognizable.
33. Special provision regarding fine.
34. Recovery of amounts due to the Government.
35. Ancient monuments, etc., which have ceased to be of national importance.
36. Power to correct mistakes, etc.
37. Protection of action taken under the Act.
38. Power to make rules.
39. Repeals and saving.



Not Corrected: See India Code *Vol. VIIA Pt. IV*

## THE ANCIENT MONUMENTS AND ARCHÆOLOGICAL SITES AND REMAINS ACT, 1958

No. 24 OF 1958

[28th August, 1958]

An Act to provide for the preservation of ancient and historical monuments and archæological sites and remains of national importance, for the regulation of archæological excavations and for the protection of sculptures, carvings and other like objects.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

### PRELIMINARY

1. (1) This Act may be called the Ancient Monuments and Archæological Sites and Remains Act, 1958.

(2) It extends to the whole of India, but sections 22, 24, 25 and 26 shall not apply to 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.

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

(a) "ancient monument" means any structure, erection or monument, or any tumulus or place of interment, or any cave, rock-sculpture, inscription or monolith, which is of historical, archæological or artistic interest and which has been in existence for not less than one hundred years, and includes—

(i) the remains of an ancient monument,

(ii) the site of an ancient monument,

(iii) such portion of land adjoining the site of an ancient monument as may be required for fencing or covering in or otherwise preserving such monument, and

(iv) the means of access to, and convenient inspection of, an ancient monument;

(b) "antiquity" includes—

(i) any coin, sculpture, manuscript, epigraph, or other work of art or craftsmanship,

Short  
title, ex-  
tent and  
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mence-  
ment.

Defini-  
tions

(ii) any article, object or thing detached from a building or cave,

(iii) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in bygone ages,

(iv) any article, object or thing of historical interest, and

(v) any article, object or thing declared by the Central Government, by notification in the Official Gazette, to be an antiquity for the purposes of this Act,

which has been in existence for not less than one hundred years;

(c) "archæological officer" means an officer of the Department of Archæology of the Government of India not lower in rank than Assistant Superintendent of Archæology;

(d) "archæological site and remains" means any area which contains or is reasonably believed to contain ruins or relics of historical or archæological importance which have been in existence for not less than one hundred years, and includes—

(i) such portion of land adjoining the area as may be required for fencing or covering in or otherwise preserving it, and

(ii) the means of access to, and convenient inspection of, the area;

(e) "Director-General" means the Director-General of Archæology, and includes any officer authorised by the Central Government to perform the duties of the Director-General;

(f) "maintain", with its grammatical variations and cognate expressions, includes the fencing, covering in, repairing, restoring and cleansing of a protected monument, and the doing of any act which may be necessary for the purpose of preserving a protected monument or of securing convenient access thereto;

(g) "owner" includes—

(i) a joint owner invested with powers of management on behalf of himself and other joint owners and the successor-in-title of any such owner; and

(ii) any manager or trustee exercising powers of management and the successor-in-office of any such manager or trustee;

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

(i) "protected area" means any archaeological site and remains which is declared to be of national importance by or under this Act;

(j) "protected monument" means an ancient monument which is declared to be of national importance by or under this Act.

ANCIENT MONUMENTS AND ARCHÆOLOGICAL SITES AND REMAINS OF NATIONAL IMPORTANCE

71 of 1951.  
37 of 1956.

3. All ancient and historical monuments and all archaeological sites and remains which have been declared by the Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Act, 1951, or by section 126 of the States Reorganisation Act, 1956, to be of national importance shall be deemed to be ancient and historical monuments or archaeological sites and remains declared to be of national importance for the purposes of this Act.

Certain ancient monuments, etc., deemed to be of national importance.

4. (1) Where the Central Government is of opinion that any ancient monument or archaeological site and remains not included in section 3 is of national importance, it may, by notification in the Official Gazette, give two months' notice of its intention to declare such ancient monument or archaeological site and remains to be of national importance; and a copy of every such notification shall be affixed in a conspicuous place near the monument or site and remains, as the case may be.

Power of Central Government to declare ancient monuments, etc., to be of national importance.

(2) Any person interested in any such ancient monument or archaeological site and remains may, within two months after the issue of the notification, object to the declaration of the monument, or the archaeological site and remains, to be of national importance.

(3) On the expiry of the said period of two months, the Central Government may, after considering the objections, if any, received by it, declare by notification in the Official Gazette, the ancient monument or the archaeological site and remains, as the case may be, to be of national importance.

(4) A notification published under sub-section (3) shall, unless and until it is withdrawn, be conclusive evidence of the fact that the ancient monument or the archaeological site and remains to which it relates is of national importance for the purposes of this Act.

## PROTECTED MONUMENTS

Acquisition of rights in a protected monument.

5. (1) The Director-General may, with the sanction of the Central Government, purchase, or take a lease of, or accept a gift or bequest of, any protected monument.

(2) Where a protected monument is without an owner, the Director-General may, by notification in the Official Gazette, assume the guardianship of the monument.

(3) The owner of any protected monument may, by written instrument, constitute the Director-General the guardian of the monument, and the Director-General may, with the sanction of the Central Government, accept such guardianship.

(4) When the Director-General has accepted the guardianship of a monument under sub-section (3), the owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument as if the Director-General had not been constituted a guardian thereof.

(5) When the Director-General has accepted the guardianship of a monument under sub-section (3), the provisions of this Act relating to agreements executed under section 6 shall apply to the written to agreements executed under the said sub-section.

(6) Nothing in this section shall affect the use of any protected monument for customary religious observances.

Preservation of protected monument by agreement.

6. (1) The Collector, when so directed by the Central Government, shall propose to the owner of a protected monument to enter into an agreement with the Central Government within a specified period for the maintenance of the monument.

(2) An agreement under this section may provide for all or any of the following matters, namely:—

(a) the maintenance of the monument;

(b) the custody of the monument and the duties of any person who may be employed to watch it;

(c) the restriction of the owner's right—

(i) to use the monument for any purpose,

(ii) to charge any fee for entry into, or inspection of, the monument,

(iii) to destroy, remove, alter or deface the monument,  
or

(iv) to build on or near the site of the monument;

(d) the facilities of access to be permitted to the public or any section thereof or to archaeological officers or to persons deputed by the owner or any archaeological officer or the Collector to inspect or maintain the monument;

(e) the notice to be given to the Central Government in case the land on which the monument is situated or any adjoining land is offered for sale by the owner, and the right to be reserved to the Central Government to purchase such land, or any specified portion of such land, at its market value;

(f) the payment of any expenses incurred by the owner or by the Central Government in connection with the maintenance of the monument;

(g) the proprietary or other rights which are to vest in the Central Government in respect of the monument when any expenses are incurred by the Central Government in connection with the maintenance of the monument;

(h) the appointment of an authority to decide any dispute arising out of the agreement; and

(i) any matter connected with the maintenance of the monument which is a proper subject of agreement between the owner and the Central Government.

(3) The Central Government or the owner may, at any time after the expiration of three years from the date of execution of an agreement under this section, terminate it on giving six months' notice in writing to the other party:

Provided that where the agreement is terminated by the owner, he shall pay to the Central Government the expenses, if any, incurred by it on the maintenance of the monument during the five years immediately preceding the termination of the agreement or, if the agreement has been in force for a shorter period, during the period the agreement was in force.

(4) An agreement under this section shall be binding on any person claiming to be the owner of the monument to which it relates, from, through or under a party by whom or on whose behalf the agreement was executed.

7. (1) If the owner of a protected monument is unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by section 6.

Owners  
under  
disability  
or not  
in pos-  
session.

(2) In the case of village property, the headman or other village-officer exercising powers of management over such property may exercise the powers conferred upon an owner by section 6.

(3) Nothing in this section shall be deemed to empower any person not being of the same religion as the person on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any part of which is periodically used for the religious worship or observances of that religion.

Applica-  
tion of  
endow-  
ment to  
repair  
a pro-  
tected  
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ment.

8. (1) If any owner or other person competent to enter into an agreement under section 6 for the maintenance of a protected monument refuses or fails to enter into such an agreement, and if any endowment has been created for the purpose of keeping such monument in repair or for that purpose among others, the Central Government may institute a suit in the court of the district judge, or, if the estimated cost of repairing the monument does not exceed one thousand rupees, may make an application to the district judge, for the proper application of such endowment or part thereof.

(2) On the hearing of an application under sub-section (1), the district judge may summon and examine the owner and any person whose evidence appears to him necessary and may pass an order for the proper application of the endowment or of any part thereof, and any such order may be executed as if it were a decree of a civil court.

Failure  
or re-  
fusal to  
enter  
into an  
agree-  
ment.

9. (1) If any owner or other person competent to enter into an agreement under section 6 for the maintenance of a protected monument refuses or fails to enter into such an agreement, the Central Government may make an order providing for all or any of the matters specified in sub-section (2) of section 6 and such order shall be binding on the owner or such other person and on every person claiming title to the monument from, through or under, the owner or such other person.

(2) Where an order made under sub-section (1) provides that the monument shall be maintained by the owner or other person competent to enter into an agreement, all reasonable expenses for the maintenance of the monument shall be payable by the Central Government.

(3) No order under sub-section (1) shall be made unless the owner or other person has been given an opportunity of making a representation in writing against the proposed order.

Not Corrected: See India Code

10. (1) If the Director-General apprehends that the owner or occupier of a protected monument intends to destroy, remove, alter, deface, imperil or misuse the monument or to build on or near the site thereof in contravention of the terms of an agreement under section 6, the Director-General may, after giving the owner or occupier an opportunity of making a representation in writing, make an order prohibiting any such contravention of the agreement:

Power to make order prohibiting contravention of agreement under section 6.

Provided that no such opportunity may be given in any case where the Director-General, for reasons to be recorded, is satisfied that it is not expedient or practicable to do so.

(2) Any person aggrieved by an order under this section may appeal to the Central Government within such time and in such manner as may be prescribed and the decision of the Central Government shall be final.

11. (1) If an owner or other person who is bound by an agreement for the maintenance of a monument under section 6 refuses or fails within such reasonable time as the Director-General may fix, to do any act which in the opinion of the Director-General is necessary for the maintenance of the monument, the Director-General may authorise any person to do any such act, and the owner or other person shall be liable to pay the expenses of doing any such act or such portion of the expenses as the owner may be liable to pay under the agreement.

Enforcement of agreements.

(2) If any dispute arises regarding the amount of expenses payable by the owner or other person under sub-section (1), it shall be referred to the Central Government whose decision shall be final.

12. Every person who purchases, at a sale for arrears of land revenue or any other public demand, any land on which is situated a monument in respect of which any instrument has been executed by the owner for the time being under section 5 or section 6, and every person claiming any title to a monument from, through or under, an owner who executed any such instrument, shall be bound by such instrument.

Purchasers at certain sales and persons claiming through owner bound by instrument executed by owner.

13. If the Central Government apprehends that a protected monument is in danger of being destroyed, injured, misused, or allowed to fall into decay, it may acquire the protected monument under the provisions of the Land Acquisition Act, 1894, as if the maintenance of the protected monument were a public purpose within the meaning of that Act.

Acquisition of protected monuments.

Maintenance of certain protected monuments.

14. (1) The Central Government shall maintain every monument which has been acquired under section 13 or in respect of which any of the rights mentioned in section 5 have been acquired.

(2) When the Director-General has assumed the guardianship of a monument under section 5, he shall, for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself and by his agents, subordinates and workmen, for the purpose of inspecting the monument and for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.

Voluntary contributions.

15. The Director-General may receive voluntary contributions towards the cost of maintaining a protected monument and may give orders as to the management and application of any funds so received by him:

Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

Protection of place of worship from misuse, pollution or desecration.

16. (1) A protected monument maintained by the Central Government under this Act which is a place of worship or shrine shall not be used for any purpose inconsistent with its character.

(2) Where the Central Government has acquired a protected monument under section 13, or where the Director-General has purchased, or taken a lease or accepted a gift or bequest or assumed guardianship of, a protected monument under section 5, and such monument or any part thereof is used for religious worship or observances by any community, the Collector shall make due provision for the protection of such monument or part thereof, from pollution or desecration—

(a) by prohibiting the entry therein, except in accordance with the conditions prescribed with the concurrence of the persons, if any, in religious charge of the said monument or part thereof, of any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used, or

(b) by taking such other action as he may think necessary in this behalf.

Relinquishment of Government rights in a monument.

17. With the sanction of the Central Government, the Director-General may,—

(a) where rights have been acquired by the Director-General in respect of any monument under this Act by virtue of any sale, lease, gift or will, relinquish, by notification in the Official Gazette, the rights so acquired to the person who would for the



Not Corrected: See India Code

of 1958]

Ancient Monuments and Archaeological  
Sites and Remains

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time being be the owner of the monument if such rights had not been acquired; or

(b) relinquish any guardianship of a monument which he has assumed under this Act.

18. Subject to any rules made under this Act, the public shall have a right of access to any protected monument.

Right of access to protected monuments.

PROTECTED AREAS

19. (1) No person, including the owner or occupier of a protected area, shall construct any building within the protected area or carry on any mining, quarrying, excavating, blasting or any operation of a like nature in such area, or utilise such area or any part thereof in any other manner without the permission of the Central Government:

Restrictions on enjoyment of property rights in protected areas.

Provided that nothing in this sub-section shall be deemed to prohibit the use of any such area or part thereof for purposes of cultivation if such cultivation does not involve the digging of not more than one foot of soil from the surface.

(2) The Central Government may, by order, direct that any building constructed by any person within a protected area in contravention of the provisions of sub-section (1) shall be removed within a specified period and, if the person refuses or fails to comply with the order, the Collector may cause the building to be removed and the person shall be liable to pay the cost of such removal.

20. If the Central Government is of opinion that any protected area contains an ancient monument or antiquities of national interest and value, it may acquire such area under the provisions of the Land Acquisition Act, 1894, as if the acquisition were for a public purpose within the meaning of that Act.

Power to acquire a protected area.

1 of 1894.

ARCHAEOLOGICAL EXCAVATIONS

21. An archaeological officer or an officer authorised by him in this behalf or any person holding a licence granted in this behalf under this Act (hereinafter referred to as the licensee) may, after giving notice in writing to the Collector and the owner, enter upon and make excavations in any protected area.

Excavations in protected areas.

22. Where an archaeological officer has reason to believe that any area not being a protected area contains ruins or relics of historical or archaeological importance, he or an officer authorised by him in this behalf may, after giving notice in writing to the Collector and the owner, enter upon and make excavations in the area.

Excavations in areas other than protected areas.

Compulsory purchase of antiquities etc., discovered during excavation operations.

23. (1) Where, as a result of any excavations made in any area under section 21 or section 22, any antiquities are discovered, the archaeological officer or the licensee, as the case may be, shall,—

(a) as soon as practicable, examine such antiquities and submit a report to the Central Government in such manner and containing such particulars as may be prescribed;

(b) at the conclusion of the excavation operations, give notice in writing to the owner of the land from which such antiquities have been discovered, of the nature of such antiquities.

(2) Until an order for the compulsory purchase of any such antiquities is made under sub-section (3), the archaeological officer or the licensee, as the case may be, shall keep them in such safe custody as he may deem fit.

(3) On receipt of a report under sub-section (1), the Central Government may make an order for the compulsory purchase of any such antiquities at their market value.

(4) When an order for the compulsory purchase of any antiquities is made under sub-section (3), such antiquities shall rest in the Central Government with effect from the date of the order.

Excavations, etc., for archaeological purposes.

24. No State Government shall undertake or authorise any person to undertake any excavation or other like operation for archaeological purposes in any area which is not a protected area except with the previous approval of the Central Government and in accordance with such rules or directions, if any, as the Central Government may make or give in this behalf.

#### PROTECTION OF ANTIQUITIES

Power of Central Government to control moving of antiquities.

25. (1) If the Central Government considers that any antiquities or class of antiquities ought not to be moved from the place where they are without the sanction of the Central Government, the Central Government may, by notification in the Official Gazette, direct that any such antiquity or any class of such antiquities shall not be moved except with the written permission of the Director-General.

(2) Every application for permission under sub-section (1) shall be in such form and contain such particulars as may be prescribed.

(3) Any person aggrieved by an order refusing permission may appeal to the Central Government whose decision shall be final.

26. (1) If the Central Government apprehends that any antiquity mentioned in a notification issued under sub-section (1) of section 25 is in danger of being destroyed, removed, injured, misused or allowed to fall into decay or is of opinion that, by reason of its historical or archaeological importance, it is desirable to preserve such antiquity in a public place, the Central Government may make an order for the compulsory purchase of such antiquity at its market value and the Collector shall thereupon give notice to the owner of the antiquity to be purchased:

Purchase of antiquities by Central Government.

(2) Where a notice of compulsory purchase is issued under sub-section (1) in respect of any antiquity, such antiquity shall vest in the Central Government with effect from the date of the notice.

(3) The power of compulsory purchase given by this section shall not extend to any image or symbol actually used for bona fide religious observances.

PRINCIPLES OF COMPENSATION

27. Any owner or occupier of land who has sustained any loss or damage or any diminution of profits from the land by reason of any entry on, or excavations in, such land or the exercise of any other power conferred by this Act shall be paid compensation by the Central Government for such loss, damage or diminution of profits.

Compensation for loss or damage.

28. (1) The market value of any property which the Central Government is empowered to purchase at such value under this Act or the compensation to be paid by the Central Government in respect of anything done under this Act shall, where any dispute arises in respect of such market value or compensation, be ascertained in the manner provided in sections 3, 5, 8 to 34, 45 to 47, 51 and 52 of the Land Acquisition Act, 1894, so far as they can be made applicable:

Assessment of market value or compensation.

1 of 1894.

Provided that, when making an enquiry under the said Land Acquisition Act, the Collector shall be assisted by two assessors, one of whom shall be a competent person nominated by the Central Government and one a person nominated by the owner, or, in case the owner fails to nominate an assessor within such reasonable time as may be fixed by the Collector in this behalf, by the Collector.

1 of 1894.

(2) Notwithstanding anything contained in sub-section (1) or in the Land Acquisition Act, 1894, in determining the market value of any antiquity in respect of which an order for compulsory purchase is made under sub-section (3) of section 23 or under sub-section (1) of section 26, any increase in the value of the antiquity by reason of its being of historical or archaeological importance shall not be taken into consideration.

## MISCELLANEOUS

Delegation of powers.

29. The Central Government may, by notification in the Official Gazette, direct that any powers conferred on it by or under this Act shall, subject to such conditions as may be specified in the direction, be exercisable also by—

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or such officer or authority subordinate to the State Government, as may be specified in the direction.

Penalties.

30. (1) Whoever—

(i) destroys, removes, injures, alters, defaces, imperils or misuses a protected monument, or

(ii) being the owner or occupier of a protected monument, contravenes an order made under sub-section (1) of section 9 or under sub-section (1) of section 10, or

(iii) removes from a protected monument any sculpture, carving, image, bas-relief, inscription, or other like object, or

(iv) does any act in contravention of sub-section (1) of section 19,

shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five thousand rupees, or with both.

(2) Any person who moves any antiquity in contravention of a notification issued under sub-section (1) of section 25 shall be punishable with fine which may extend to five thousand rupees; and the court convicting a person of any such contravention may by order direct such person to restore the antiquity to the place from which it was moved.

Jurisdiction to try offences.

31. No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act.

Certain offences to be cognizable.

32. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under clause (i) or clause (iii) of sub-section (1) of section 30, shall be deemed to be a cognizable offence within the meaning of that Code. 5 of 1898.

Special provision regarding fine.

33. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any magistrate of the first class specially empowered by the State Government in this behalf and for any presidency magistrate to pass a sentence of 5 of 1898.

Not Corrected: See India Code

of 1958]

*Ancient Monuments and Archaeological Sites and Remains*

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fine exceeding two thousand rupees on any person convicted of an offence which under this Act is punishable with fine exceeding two thousand rupees.

34. Any amount due to the Government from any person under this Act may, on a certificate issued by the Director-General or an archaeological officer authorised by him in this behalf be recovered in the same manner as an arrear of land revenue.

Recovery of amounts due to the Government.

35. If the Central Government is of opinion that any ancient and historical monument or archaeological site and remains declared to be of national importance by or under this Act has ceased to be of national importance, it may, by notification in the Official Gazette, declare that the ancient and historical monument or archaeological site and remains, as the case may be, has ceased to be of national importance for the purposes of this Act.

Ancient monuments, etc., which have ceased to be of national importance.

36. Any clerical mistake, patent error or error arising from accidental slip or omission in the description of any ancient monument or archaeological site and remains declared to be of national importance by or under this Act may, at any time, be corrected by the Central Government by notification in the Official Gazette.

Power to correct mistakes, etc.

37. No suit for compensation and no criminal proceeding shall lie against any public servant in respect of any act done or in good faith intended to be done in the exercise of any power conferred by this Act.

Protection of action taken under the Act.

38. (1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

Power to make rule

(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 prohibition or regulation by licensing or otherwise of mining, quarrying, excavating, blasting or any operation of a like nature near a protected monument or the construction of buildings on land adjoining such monument and the removal of unauthorised buildings;

(b) the grant of licences and permissions to make excavations for archaeological purposes in protected areas, the authorities by whom, and the restrictions and conditions subject to which, such licences may be granted, the taking of securities from licensees and the fees that may be charged for such licences;

(c) the right of access of the public to a protected monument and the fee, if any, to be charged therefor;

(d) the form and contents of the report of an archaeological officer or a licensee under clause (a) of sub-section (1) of section 23;

(e) the form in which applications for permission under section 19 or section 25 may be made and the particulars which they should contain;

(f) the form and manner of preferring appeals under this Act and the time within which they may be preferred;

(g) the manner of service of any order or notice under this Act;

(h) the manner in which excavations and other like operations for archaeological purposes may be carried on;

(i) any other matter which is to be or may be prescribed.

(3) Any rule made under this section may provide that a breach thereof shall be punishable,—

(i) in the case of a rule made with reference to clause (a) of sub-section (2), with imprisonment which may extend to three months, or with fine which may extend to five thousand rupees, or with both;

(ii) in the case of a rule made with reference to clause (b) of sub-section (2), with fine which may extend to five thousand rupees;

(iii) in the case of a rule made with reference to clause (c) of sub-section (2), with fine which may extend to five hundred rupees.

(4) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as possible after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

Repeals  
and  
savings.

39. (1) The Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Act, 1951, and section 126 of the States Reorganisation Act, 1956, are hereby repealed.

(2) The Ancient Monuments Preservation Act, 1904, shall cease to have effect in relation to ancient and historical monuments and archaeological sites and remains declared by or under this Act to be of national importance, except as respects things done or omitted to be done before the commencement of this Act.

Rep. by Act 58 of 1958 (No. 24 of 1958) (W. No. 2612-60)

**THE ALL-INDIA SERVICES (AMENDMENT) ACT, 1958**

No. 25 OF 1958

[3rd September, 1958.]

An Act to amend the All-India Services Act, 1951.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:

1. This Act may be called the All-India Services (Amendment) Act, 1958. Short title.

2. In sub-section (1) of section 3 of the All-India Services Act, 1951, after the words "the States concerned", the words "including the State of Jammu and Kashmir" shall be inserted. Amendment of section 3.

Rep. by Act 58 of 1958 (S. 2 + Sch. I) (as amended by Act 26 of 1958)

THE CODE OF CRIMINAL PROCEDURE  
(AMENDMENT) ACT, 1958

No. 26 OF 1958

[3rd September, 1958]

An Act further to amend the Code of Criminal Procedure, 1898.

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

Short title. 1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1958.

Omission of section 93A. 2. Section 93A of the Code of Criminal Procedure, 1898 of 1898. (hereinafter referred to as the principal Act), shall be omitted.

Insertion of new Chapter VIIA. 3. In Part III of the principal Act, after Chapter VII, the following Chapter shall be inserted, namely:—

“CHAPTER VIIA

SPECIAL RULES REGARDING PROCESSES IN CERTAIN CASES

Special rules regarding processes in certain cases. 105A. (1) Where a court in the territories to which this Code extends (hereinafter in this section referred to as the said territories) desires that—

(a) a summons to an accused person, or

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

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

(d) a search warrant,

issued by it shall be served or executed at any place within the local limits of the jurisdiction of a court in the State of Jammu and Kashmir or a court established or continued by the authority of the Central Government in any area outside the said territories, it may send such summons or warrant in duplicate by post or otherwise, to the presiding officer of that court to be served or executed; and where any summons referred to in clause (a) or clause (c) has been so served, the provisions of section 74 shall apply in relation to such summons as if the presiding officer of the court to whom it is sent were a magistrate in the said territories.



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

- (a) a summons to an accused person, or
- (b) a warrant for the arrest of an accused person, or
- (c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or
- (d) a search warrant,

issued by a court in the State of Jammu and Kashmir or a court established or continued by the authority of the Central Government in any area outside the said territories, it shall cause the same to be served or executed as if it were a summons or warrant received by it from another court in the said territories for service or execution within the local limits of its jurisdiction; and where—

(i) a warrant of arrest has been executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by sections 85 and 86;

(ii) a search warrant has been executed, the things found in the search shall, so far as possible, be dealt with in accordance with the procedure prescribed by section 99."

4. (1) The Code of Criminal Procedure (Amendment) Ordinance, 2 of 1958. 1958, is hereby repealed. Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 5th day of June, 1958.

Not Corrected: See India Code Volume VIII B, Pt. II

# THE MINERAL OILS (ADDITIONAL DUTIES OF EXCISE AND CUSTOMS) ACT, 1958

No. 27 OF 1958

[4th September, 1958]

An Act to provide for the levy and collection of additional duties of excise and customs on certain mineral oils.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Mineral Oils (Additional Duties of Excise and Customs) Act, 1958.

(2) It shall be deemed to have come into force on the twentieth day of May, 1958.

Definitions.

2. In this Act, "kerosene", "motor spirit", "refined diesel oils and vaporizing oil" and "diesel oil, not otherwise specified" and "furnace oil" shall have the meanings respectively assigned to them in Items Nos. 1, 4, 24 and 25 of the First Schedule to the Central Excises and Salt Act, 1944.

Levy and collection of additional duties of excise on certain mineral oils.

3. (1) There shall be levied and collected in respect of the goods mentioned in column 1 of the Table hereunder duties of excise at such rates not exceeding those specified in relation thereto in column 2 of the said Table as may be specified by the Central Government by notification in the Official Gazette,—

1 of 1944.

TABLE

Description of goods	Rate of additional duty
1. Kerosene	Twelve naye paise per imperial gallon.
2. Motor spirit	Twenty-five naye paise per imperial gallon
3. Refined diesel oils and vaporizing oil	Fifteen naye paise per imperial gallon.
4. Diesel oil, not otherwise specified	Rupees twenty per ton.
5. Furnace oil	Rupees twenty per ton.

[This Section]

(2) The duties of excise referred to in sub-section (1) in respect of the goods specified therein shall be in addition to the duties of excise chargeable on such goods under the Central Excises and Salt Act, 1944, or any other law for the time being in force.

1 of 1944.

\* Ins. and Subs. by Act 59 of 1959, s.2.

[ACT 27 OF 1958] Mineral Oils (Additional Duties of Excise and Customs) 129

1 of 1944.

(3) The provisions of the Central Excises and Salt Act, 1944, and the rules 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 additional duties of excise referred to in this section as they apply in relation to the levy and collection of the duties of excise in respect of the goods specified in ~~sub-section (1)~~ *[this section]*

(4) Notwithstanding anything contained in this section, the Central Government may, having regard to the administrative or other difficulties, if any, which may arise in relation to the levy and collection of all or any of the additional duties of excise under this Act for any period commencing on the 20th day of May, 1958, and ending on the 29th day of June, 1958, assess the additional duties of excise payable by any person under this Act to be such sum as to the Central Government appears proper in the circumstances.

32 of 1934.

4. For so long as an additional duty of excise is levied and collected under this Act in respect of kerosene, the entry in the fourth column relating to sub-item (a) of Item No. 27(4) of the First Schedule to the Indian Tariff Act, 1934, shall have effect as if the words, brackets and figures "plus the excise duty for the time being leviable under the Mineral Oils (Additional Duties of Excise and Customs) Act, 1958, on like articles if produced or manufactured in India" had been added thereto.

Amendment of Act 32 of 1934.

3 of 1930.

5. Notwithstanding anything contained in section 64A of the Indian Sale of Goods Act, 1930, or in any other law for the time being in force, or in any contract or agreement, no purchaser purchasing any of the goods referred to in ~~sub-section (1) of section 3,~~ shall be liable to pay or be sued for, or in respect of, —

Additional duties of excise and customs not to be added to price of goods for sale.

(a) the whole or any part of the additional duties of excise leviable under this Act, or

32 of 1934.

(b) the whole or any part of the additional duties of customs leviable under section 4 or under the Indian Tariff Act, 1934, to the extent to which such duties have become leviable by reason of this Act,

as an addition to the contract price payable by him in respect of the goods so purchased.

*Explanation.*—In this section, "purchaser" shall not include any person in principal charge of the distribution in India of any of the goods referred to in ~~sub-section (1) of section 3.~~

6 of 1958

6. The Mineral Oils (Additional Duties of Excise and Customs) Ordinance, 1958, is hereby repealed.

Repeal.

*2* Duty and Ins. by Act 59 of 1957, 62  
*2* Omittes, 2nd, 3.3.

THE ARMED FORCES (ASSAM AND MANIPUR)  
SPECIAL POWERS ACT, 1958

No. 28 OF 1958

[11th September, 1958]

An Act to enable certain special powers to be conferred upon members of the armed forces in disturbed areas in the State of Assam and the Union territory of Manipur.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

Short title and extent.

1. (1) This Act may be called the Armed Forces (Assam and Manipur) Special Powers Act, 1958.

(2) It extends to the whole of the State of Assam and the Union territory of Manipur.

Definitions.

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

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

(b) "disturbed area" means an area which is for the time being declared by notification under section 3 to be a disturbed area;

(c) all other words and expressions used herein, but not defined and defined in the Air Force Act, 1950, or the Army Act, 1950, shall have the meanings respectively assigned to them in 46 of 1950, those Acts.

Power to declare areas to be disturbed areas.

3. If the Governor of Assam or the Chief Commissioner of Manipur is of the opinion that the whole or any part of the State of Assam or the Union territory of Manipur, as the case may be, is in such a disturbed or dangerous condition that the use of armed forces in aid of the civil power is necessary, he may, by notification in the Official Gazette, declare the whole or any part of the State or Union territory to be a disturbed area.

Special powers of the armed forces.

4. Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed area,—

(a) if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary, fire upon or otherwise use force, even

to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances;

(b) if he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made, or any structure used as a training camp for armed volunteers or utilised as a hide-out by armed gangs or absconders wanted for any offence;

(c) arrest, without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest;

(d) enter and search without warrant any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any property reasonably suspected to be stolen property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises, and may for that purpose use such force as may be necessary.

5. Any person arrested and taken into custody under this Act shall be made over to the officer in charge of the nearest police station with the least possible delay, together with a report of the circumstances occasioning the arrest. Arrested persons to be made over to the police.

6. No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act. Protection to persons acting under Act.

~~7. (1) The Armed Forces (Assam and Manipur) Special Powers Ordinance, 1958, is hereby repealed. Repeal and saving.~~

~~(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 22nd day of May, 1958.~~

*4 omitted by Act 50 of 1960, s 24 sub 1 (wef. 2.12.60)*

~~Not Corrected: See India Code~~  
Not Corrected: See India Code

# THE WORKING JOURNALISTS (FIXATION OF RATES OF WAGES) ACT, 1958

No. 29 OF 1958

[16th September, 1958]

An Act to provide for the fixation of rates of wages in respect of working journalists and for matters connected therewith.

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

Short title.

1. This Act may be called the Working Journalists (Fixation of Rates of Wages) Act, 1958.

Definitions.

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

(a) "Committee" means the Committee constituted under section 3;

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

(c) "Wage Board" means the Wage Board constituted under the Working Journalists Act by notification No. S.R.O. 1075 of the Government of India in the Ministry of Labour, dated the 2nd May, 1956;

(d) "Wage Board decision" means the decisions of the Wage Board published in the Gazette of India Extraordinary, Part II, Section 3, dated the 11th May, 1957;

(e) "wages" means wages as defined in the Industrial Disputes Act, 1947;

14 of 1947.

(f) "Working Journalists Act" means the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955;

45 of 1955.

(g) words and expressions used but not defined in this Act, and defined in the Working Journalists Act, shall have the meanings respectively assigned to them in that Act.

Constitution of Committee.

3. (1) For the purpose of enabling the Central Government to fix rates of wages in respect of working journalists in the light of the Judgment of the Supreme Court, dated the 19th day of March, 1958, relating to the Wage Board decision, and in the light of all other

[ACT 29 OF 1958] *Working Journalists (Fixation of Rates of Wages)* 133

relevant circumstances, the Central Government shall, by notification in the Official Gazette, constitute a Committee consisting of the following persons, namely:—

(i) an officer of the Ministry of Law not below the rank of Joint Secretary, nominated by the Central Government, who shall be the Chairman of the Committee,

(ii) three persons nominated by the Central Government from among the officers of each of the Ministries of Home Affairs, Labour and Employment and Information and Broadcasting,

(iii) a chartered accountant nominated by the Central Government.

(2) If for any reason a vacancy (other than a vacancy by reason of temporary absence) occurs in the office of the Chairman or any other member of the Committee, the Central Government may appoint another person in accordance with the provisions of subsection (1) to fill the vacancy, and the inquiry before the Committee may be continued from the stage which had been reached when the vacancy arose.

(3) The Central Government may appoint a Secretary to the Committee, and may also provide the Committee with such other staff as may be necessary.

(4) The Secretary shall perform such functions of a ministerial or other nature as the Committee or the Chairman thereof may assign or delegate to him.

4. (1) The Committee shall, by notice published in such manner as it thinks fit, call upon newspaper establishments and working journalists and other persons interested in the Wage Board decision to make such representations as they may think fit as respects the Wage Board decision and the rates of wages which may be fixed under this Act in respect of working journalists.

(2) Every such representation shall be in writing and shall be made within such period not exceeding thirty days, as the Committee may specify in the notice, and shall state—

(a) the specific grounds of objection, if any, to the Wage Board decision,

(b) the rates of wages which, in the opinion of the person making the representation, would be reasonable, having regard to the capacity of the employer to pay the same or to any other circumstance, whichever may seem relevant to the person making the representation in relation to his representation.

(c) the alterations or modifications, if any, which, in the opinion of the person making the representation, should be made in the Wage Board decision and the reasons therefor.

(3) The Committee shall take into account the representations aforesaid, if any, and after examining the materials placed before the Wage Board and such further materials as have since been obtained by or made available to it under this Act, make such recommendations, as it thinks fit, to the Central Government for the fixation of rates of wages in respect of working journalists, whether by way of modification or otherwise, of the Wage Board decision; and any such recommendation may specify, whether prospectively or retrospectively, the date from which the rates of wages should take effect.

(4) In making any recommendations to the Central Government, the Committee shall have regard to all the matters set out in sub-section (1) of section 9 of the Working Journalists Act.

(5) The Committee may, if it thinks fit, take up for consideration separately groups or classes of newspaper establishments, whether on the basis of regional classification or on any other basis, and make recommendations from time to time in regard to each such group or class.

Powers of  
Committee

5. (1) Subject to the provisions contained in sub-section (2), the Committee may exercise all or any of the powers which an industrial tribunal, constituted under the Industrial Disputes Act, 1947, exercises for the adjudication of an industrial dispute referred to it and shall, subject to the provisions contained in this Act and the rules, if any, made thereunder, have power to regulate its own procedure. 14 of 1947.

(2) Any representations made to the Committee and any documents furnished to it by way of evidence, shall be open to inspection on payment of such fee as may be prescribed, by any person interested in the matter.

(3) If in the course of any inquiry it appears to the Committee that it is necessary to examine any accounts or documents or obtain any statements from any person, the Committee may authorise any officer of the Central Government (hereinafter referred to as the authorised officer) in that behalf; and the authorised officer shall, subject to the directions of the Committee, if any, examine the accounts or documents or obtain the statements from the person.

(4) The authorised officer may, subject to the directions of the Committee, if any, exercise all or any of the powers which an indus-



14 of 1947. (3) of section 11 of the Industrial Disputes Act, 1947.

11 of 1922. (5) Nothing in sub-section (1) of section 54 of the Indian Income-tax Act, 1922, or in any corresponding provision in any other law for the time being in force relating to the levy of any tax shall apply to the disclosure of any of the particulars referred to therein in any report made to the Committee by an authorised officer.

(6) Any information obtained by an authorised officer in the exercise of any of his powers and any report made by him shall, notwithstanding anything contained in this Act, be treated as confidential, but nothing in this sub-section shall apply to the disclosure of any such information or report to the Central Government or to a court in relation to any matter concerning the execution of this Act.

45 of 1860. (7) The authorised officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

6. (1) As soon as may be, after the receipt of the recommendations of the Committee, the Central Government shall make an order in terms of the recommendations or subject to such modifications, if any, as it thinks fit, being modifications which, in the opinion of the Central Government, do not effect important alterations in the character of the recommendations.

Power of Central Government to enforce recommendations of Committee.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, if it thinks fit,—

(a) make such modifications in the recommendations, not being modifications of the nature referred to in sub-section (1), as it thinks fit;

Provided that before making any such modifications, the Central Government shall cause notice to be given to all persons likely to be affected thereby in such manner as may be prescribed, and shall take into account any representations which they may make in this behalf in writing, or

(b) refer the recommendations or any part thereof to the Committee, in which case the Central Government shall consider its further recommendations and make an order either in terms of the recommendations or with such modifications of the nature referred to in sub-section (1) as it thinks fit.

(3) Every order made by the Central Government shall be published in the Official Gazette together with the recommendations of the Committee relating to the order, and the order shall come

into operation on the date of publication or on such date, whether prospectively or retrospectively, as may be specified in the order.

Working  
journa-  
lists en-  
titled to  
wages at  
rates not  
less than  
those spe-  
cified in  
the  
order.

7. Subject to the provisions contained in section 11, on the coming into operation of an order of the Central Government, every working journalist shall be entitled to be paid by his employer wages at a rate which shall in no case be less than the rate of wages specified in the order.

Review  
of order  
of  
Central  
Govern-  
ment.

8. The Central Government may, at any time after the expiry of three years from the date of the order passed by it under this Act, if it is of opinion that circumstances require that the rates of wages specified in the order should be revised, constitute a Wage Board as provided in section 8 of the Working Journalists Act, and where a Wage Board is so constituted, the provisions of the Working Journalists Act shall apply thereto.

Recovery  
of money  
due to  
working  
journa-  
lists.

9. (1) Where any amount is due under this Act to a working journalist from an employer, the working journalist may, without prejudice to any other mode of recovery, make an application to the State Government for the recovery of the money due to him, and if the State Government, or such authority as the State Government may specify in this behalf, is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector, and the Collector shall proceed to recover that amount in the same manner as an arrear of land revenue.

(2) If any question arises as to the amount due under this Act to a working journalist from an employer, the State Government may, on its own motion or upon application made to it, refer the question to any Labour Court constituted by it under section 7 of the Industrial Disputes Act, 1947, and the said Act shall have effect in relation to the Labour Court as if the question so referred were a matter specified in the Second Schedule to that Act which has been referred to the Labour Court for adjudication.

14 of 1947

(3) The decision of the Labour Court shall be forwarded by it to the State Government which made the reference, and any amount found due by the Labour Court may be recovered in the manner provided in sub-section (1).

Authenti-  
cation of  
orders,  
letters,  
etc., of  
the Com-  
mittee.

10. All notices, letters, authorisations, orders or other documents to be issued or made by the Committee under this Act may be authenticated by the Chairman or the Secretary thereof or any other officer authorised by the Committee in this behalf and any notice, letter, authorisation, order or other document, so authenticated shall be presumed to have been duly issued or made by the Committee.

11. (1) Sections 8, 10, 11, 12 and 13 of the Working Journalists Act shall have no effect in relation to the Committee.

Effect of Act on Working Journalists Act, etc.

(2) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith 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 working journalist 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 working journalist 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.

(3) Nothing contained in this Act shall be construed to preclude any working journalist from entering into any agreement with 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.

12. No act or proceeding of the Committee shall be invalid merely by reason of the existence of any vacancy among its members or any defect in the constitution thereof.

Vacancies, etc., not to invalidate proceedings of Committee.

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

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which notices under this Act may be published;

(b) the procedure to be followed by the Committee in the exercise of its powers under this Act;

(c) the powers and functions of the Committee which may be delegated to any of its members;

(d) the fees to be paid for inspection of documents furnished to the Committee.

14. (1) The Working Journalists (Fixation of Rates of Wages) Ordinance, 1958, is hereby repealed.

Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act as if this Act had commenced on the 14th day of June, 1958.

3 of 1958.

THE SUGAR EXPORT PROMOTION ACT, 1958

No. 30 OF 1958

[16th September, 1958]

An Act to provide for the export of sugar in the public interest and for the levy and collection in certain circumstances of an additional duty of excise on sugar produced in India.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

Short title and extent.

1. (1) This Act may be called the Sugar Export Promotion Act, 1958.

(2) It extends to the whole of India.

Definitions.

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

(a) "export" means taking out of India by sea, land or air;

(b) "export agency" means any such agency as may be specified in this behalf under section 3, and when no such agency has been so specified, the Central Government;

(c) "export quota" means the export quota referred to in section 5;

(d) "factory" means any premises (including the precincts thereof) wherein sugar is being produced by the vacuum pan process;

(e) "owner"—

(i) with reference to any factory the possession of which has been transferred by lease, mortgage or otherwise, means the transferee so long as his right to possession subsists,

(ii) with reference to any factory for which an agent, by whatever name called, is employed, means the agent if, and in so far as, he has been duly authorised by the owner in that behalf, and

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(iii) with reference to any factory the management of which has been taken over by any person or body of persons under the Industries (Development and Regulation) Act, 1951, means that person or body of persons;

(f) "sugar" means any form of sugar containing more than ninety per cent. of sucrose;

(g) "year" means the year beginning on the first day of May.

r of 1956.

3. (1) For the purposes of this Act, the Central Government may, by notification in the Official Gazette, specify as an export agency any company within the meaning of the Companies Act, 1956, or any body of persons established or recognised as a body corporate by or under any other law for the time being in force.

Export agency.

(2) Where any such company or other body corporate has been specified as an export agency, it shall be lawful for such agency to perform all or any of the functions of an export agency under this Act, notwithstanding anything to the contrary contained in the memorandum or articles of association of the company or, as the case may be, the law applicable thereto.

4. (1) The Central Government may, by notification in the Official Gazette, fix from time to time the quantity of sugar which may be exported during any period, and, in fixing such quantity, the Central Government shall have regard to—

Fixation of quantity of sugar for purposes of export.

- (a) the quantity of sugar available in India,
- (b) the quantity of sugar which, in its opinion, would be reasonably required for consumption in India,
- (c) the necessity for exporting sugar with a view to earning foreign exchange in the public interest.

(2) The power conferred by sub-section (1) shall be so exercised as to ensure that the quantity fixed under that sub-section for any year does not exceed in the aggregate twenty per cent. of the quantity of sugar produced in India in the season ending with the month of October falling within that year.

5. The Central Government shall, by order in writing, apportion the quantity of sugar fixed from time to time for purposes of export under section 4 among the owners in proportion to the quantity of sugar produced, or likely to be produced, by them respectively during the season referred to in sub-section (2) of section 4, and such order shall be communicated to each of the owners, and the quantity so apportioned shall be deemed to be the export quota for the factory of that owner.

Export quotas for factories.

Liability of owner to deliver export quota to export agency.

6. (1) Every owner shall, on demand by the export agency, deliver to it from time to time sugar produced in his factory in such quantities (not exceeding in the aggregate his export quota fixed for the factory or group of factories, as the case may be), of such grade, in such manner, within such time and at such place, as may be specified by the export agency in this behalf.

(2) When sugar has been delivered by an owner in accordance with the provisions of sub-section (1), the owner shall retain no rights in respect of such sugar except his right to receive payment therefor under section 7.

Levy of additional excise duty on sugar.

7. (1) Where sugar delivered by any owner falls short of the export quota fixed for it by any quantity (hereinafter referred to as the said quantity), there shall be levied and collected on so much of the sugar despatched from the factory for consumption in India as is equal to the said quantity, a duty of excise at the rate of seventeen rupees per maund.

(2) The duty of excise referred to in sub-section (1) shall be in addition to the duty of excise chargeable on sugar under 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 and Salt Act, 1944, is adjudged.

(4) The provisions of the Central Excises and Salt Act, 1944, 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 duty of excise or any other sum referred to in this section as they apply in relation to the levy and collection of the duty on sugar or other sums of money payable to the Central Government under that Act or the rules made thereunder.

Sale by export agency of sugar delivered.

8. (1) The export agency shall take all practical measures to export sugar delivered to it under this Act.

Provided that, if the export agency is of opinion that having regard to the quality of the sugar delivered to it by any owner, or

*Duty by Act 38 of 1960 S. 8 (w.e.f. 1-10-60)*

to the expenses involved in transporting the sugar from one place to another, or to the delay likely to be involved in exporting it, or to the conditions prevailing in the markets for sugar, whether in or out of India, or to any other relevant circumstance, it is expedient so to do, the export agency may sell the whole or any part of the sugar in India and may, if it thinks fit, purchase such quantity of sugar as it may consider necessary for export at the appropriate time.

(2) For the purposes of sub-section (1) the export agency may itself sell sugar or permit the owner to sell the whole or any part of the export quota in his custody at a price approved by it on condition that the sale-proceeds are payable to it.

9. (1) The export agency shall, at such time as it thinks fit, make to the owners who have delivered sugar to it under this Act, payments determined in accordance with the provisions hereinafter in this section contained.

Payments to owners in respect of sugar delivered.

(2) From the total sale-proceeds in respect of the quantity fixed for export under section 4 for any year, there shall be deducted the total expenditure incurred by the export agency in respect of the sugar, whether by way of administrative expenses or otherwise, and the balance shall be apportioned among the owners in proportion to the quantity of sugar delivered by them respectively during that year.

(3) In making any distribution under this section, the export agency shall make such adjustments as may be necessary having regard to the grade of sugar delivered by any owner, the adjustments being made on the basis of sugar of ISS-E-29 grade and with reference to the price differential schedule for different grades of sugar which the Central Government may, by notification in the Official Gazette, publish in this behalf.

(4) Notwithstanding anything contained in this section and subject to the rules which may be made in this behalf, the export agency may make on account payments to owners against documents of delivery of sugar furnished by them, and such payments shall be adjusted at the time of final payment.

10. The export agency specified under section 3 shall be bound, in the discharge of its functions under this Act, by such general or special directions, as the Central Government may give to it in writing.

Power of Central Government to give directions.

11. 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,

Delegation of powers.

be exercisable also by such officer or authority subordinate to the Central Government as may be specified in the notification.

Protection of action taken under Act.

12. No suit, prosecution or other legal proceeding shall lie against the export agency or 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.

Power to make rules.

13. (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 submission by owners to such authority as may be specified in this behalf, of returns or reports or other information relating to the manufacture, sale, despatch, stocks and prices of sugar;

(b) the manner in which the accounts of the export agency may be maintained and audited;

(c) the inspection of records and registers of factories and the export agency;

(d) the making of payments by the export agency to owners;

(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) All rules made under this Act shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

Repeal and saving.

14. (1) The Sugar Export Promotion Ordinance, 1958, is hereby repealed.

5 of 1958.

(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 27th day of June, 1958.



Rep. by Act 58 of 1958, S. 2 - New I (w. of 2, 6, 12, 60)

THE CENTRAL SALES TAX (SECOND AMENDMENT) ACT, 1958

No. 31 of 1958

[16th September, 1958]

An Act further to amend the Central Sales Tax Act, 1956.

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

1. (1) This Act may be called the Central Sales Tax (Second Amendment) Act, 1958.

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.

74 of 1956.

2. In section 2 of the Central Sales Tax Act, 1956 (hereinafter referred to as the principal Act),—

Amendment of section 2.

(i) in clause (a), the words "one or more" in sub-clause (i), and the Explanation shall be omitted;

(ii) in clause (b), for the words "selling goods", the words "buying or selling goods" shall be substituted;

(iii) in clause (d), after the words "does not include", the word "newspapers," shall be inserted;

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

(dd) "place of business" includes—

(i) in any case where a dealer carries on business through an agent (by whatever name called), the place of business of such agent;

(ii) a warehouse, godown or other place where a dealer stores his goods; and

(iii) a place where a dealer keeps his books of account;

Amend-  
ment of  
section 6.

3. Section 6 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Notwithstanding anything contained in sub-section (1), where a sale in the course of inter-State trade or commerce of goods of the description referred to in sub-section (3) of section 8—

(a) has occasioned the movement of such goods from one State to another; or

(b) has been effected by a transfer of documents of title to such goods during their movement from one State to another;

but any subsequent sale to a registered dealer during such movement effected by a transfer of documents of title to such goods shall not be subject to tax under this Act:

Provided that no such subsequent sale shall be exempt from tax under this sub-section unless the dealer effecting the sale furnishes to the prescribed authority in the prescribed manner a certificate duly filled and signed by the registered dealer from whom the goods were purchased, containing the prescribed particulars.”

Amend-  
ment of  
section 7.

4. In section 7 of the principal Act,—

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

“(2) Any dealer liable to pay tax under the sales tax law of the appropriate State, or where there is no such law in force in the appropriate State or any part thereof, any dealer having a place of business in that State or part, as the case may be, may, notwithstanding that he is not liable to pay tax under this Act, apply for registration under this Act to the authority referred to in sub-section (1), and every such application shall contain such particulars as may be prescribed.

*Explanation.*—For the purposes of this sub-section, a dealer shall be deemed to be liable to pay tax under the sales tax law of the appropriate State notwithstanding that under such law a sale or purchase made by him is exempt from tax or a refund or rebate of tax is admissible in respect thereof.”;

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

“(4) A certificate of registration granted under this section may—

(a) either on the application of the dealer to whom it has been granted, or, where no such application has been made, after due notice to the dealer, be amended by the authority granting it if he is satisfied that by reason of the registered dealer having changed the name, place or nature of his business or the class or classes of goods in which he carries on business or for any other reason the certificate of registration granted to him requires to be amended; or

(b) be cancelled by the authority granting it where he is satisfied, after due notice to the dealer to whom it has been granted, that he has ceased to carry on business or has ceased to exist, or in the case of a dealer registered under sub-section (2) has ceased to be liable to pay tax under the sales tax law of the appropriate State or for any other sufficient reason.”

5. For sub-sections (1), (2), (3) and (4) of section 8 of the principal Act, the following sub-sections shall be substituted, namely:— Amendment of section 8.

“(1) Every dealer, who in the course of inter-State trade or commerce—

(a) sells to the Government any goods; or

(b) sells to a registered dealer other than the Government goods of the description referred to in sub-section (3); shall be liable to pay tax under this Act, which shall be one per cent. of his turnover.

(2) The tax payable by any dealer on his turnover in so far as the turnover or any part thereof relates to the sale of goods in the course of inter-State trade or commerce not falling within sub-section (1)—

(a) in the case of declared goods, shall be calculated at the rate applicable to the sale or purchase of such goods inside the appropriate State; and

(b) in the case of goods other than declared goods, shall be calculated at the rate of seven per cent. or at the

rate applicable to the sale or purchase of such goods inside the appropriate State, whichever is higher;

and for the purpose of making any such calculation any such dealer shall be deemed to be a dealer liable to pay tax under the sales tax law of the appropriate State, notwithstanding that he, in fact, may not be so liable under that law.

(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), if under the sales tax law of the appropriate State the sale or purchase, as the case may be, of any goods by a dealer is exempt from tax generally or is subject to tax generally at a rate which is lower than one per cent. (whether called a tax or fee or by any other name), the tax payable under this Act on his turnover in so far as the turnover or any part thereof relates to the sale of such goods shall be nil or, as the case may be, shall be calculated at the lower rate.

*Explanation.*—For the purposes of this sub-section a sale or purchase of goods shall not be deemed to be exempt from tax generally under the sales tax law of the appropriate State if under that law it is exempt only in specified circumstances or under specified conditions or in relation to which the tax is levied at specified stages or otherwise than with reference to the turnover of the goods.

(3) The goods referred to in clause (b) of sub-section (1)—

(a) in the case of declared goods are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for re-sale by him;

(b) in the case of goods other than declared goods are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for re-sale by him or subject to any rules made by the Central Government in this behalf, for use by him in the manufacture or processing of goods for sale or in mining or in the generation or distribution of electricity or any other form of power;

(c) are containers or other materials specified in the certificate of registration of the registered dealer purchasing the goods, being containers or materials intended for being used for the packing of goods for sale;

(d) are containers or other materials used for the packing of any goods or classes of goods specified in the certificate of registration referred to in clause (a) or clause (b) or for the packing of any containers or other materials specified in the certificate of registration referred to in clause (c).

(4) The provisions of sub-section (1) shall not apply to any sale in the course of inter-State trade or commerce unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner—

(a) a declaration duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in a prescribed form obtained from the prescribed authority; or

(b) if the goods are sold to the Government, not being a registered dealer, a certificate in the prescribed form duly filled and signed by a duly authorised officer of the Government."

6. For section 9 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for section 9.

"9. (1) The tax payable by any dealer under this Act on sales of goods effected by him in the course of inter-State trade or commerce [whether such sales fall within clause (a) or clause (b) of section 3] shall be levied and collected by the Government of India in the manner provided in sub-section (3) in the State from which the movement of the goods commenced:

Levy and collection of tax and penalties.

Provided that, in the case of a sale of goods during their movement from one State to another being a sale subsequent to the first sale in respect of the same goods, the tax shall, where such sale does not fall within sub-section (2) of section 6, be levied and collected in the State from which the registered dealer effecting the subsequent sale obtained the form prescribed for the purposes of clause (a) of sub-section (4) of section 8 in connection with the purchase of such goods.

(2) The penalty imposed upon any dealer under section 10A shall be collected by the Government of India in the manner provided in sub-section (3)—

(a) in the case of an offence falling under clause (b) or clause (d) of section 10, in the State in which the person

purchasing the goods obtained the form prescribed for the purposes of clause (a) of sub-section (4) of section 8 in connection with the purchase of such goods;

(b) in the case of an offence falling under clause (c) of section 10, in the State in which the person purchasing the goods should have registered himself if the offence had not been committed

(3) The authorities for the time being empowered to assess, collect and enforce payment of any tax under the general sales tax law of the appropriate State shall, on behalf of the Government of India and subject to any rules made under this Act, assess, collect and enforce payment of any tax, including any penalty, payable by a dealer under this Act in the same manner as the tax on the sale or purchase of goods under the general sales tax law of the State is assessed, paid and collected; and for this purpose they may exercise all or any of the powers they have under the general sales tax law of the State, and the provisions of such law, including provisions relating to returns, appeals, reviews, revisions, references, penalties and compounding of offences, shall apply accordingly.

Provided that if in any State or part thereof there is no general sales tax law in force, the Central Government may, by rules made in this behalf, make necessary provision for all or any of the matters specified in this sub-section, and such rules may provide that a breach of any rule shall be punishable with fine which may extend to five hundred rupees; and where the offence is a continuing offence, with a daily fine which may extend to fifty rupees for every day during which the offence continues.

(4) The proceeds in any financial year of any tax, including any penalty, levied and collected under this Act in any State (other than a Union territory) on behalf of the Government of India shall be assigned to that State and shall be retained by it, and the proceeds attributable to Union territories shall form part of the Consolidated Fund of India.

9A. No person who is not a registered dealer shall collect in respect of any sale by him of goods in the course of inter-State trade or commerce any amount by way of tax under this Act, and no registered dealer shall make any such collection except in accordance with this Act and the rules made thereunder."

Collection of tax to be only by registered dealers.

7. In section 10 of the principal Act, after clause (z), the following clause shall be inserted, namely:—

Amendment of section 10.

“(f) collects any amount by way of tax in contravention of the provisions contained in section 9A;”

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

Insertion of new section 10A.

10A. If any person purchasing goods is guilty of an offence under clause (b) or clause (c) or clause (d) of section 10, the authority who granted to him or, as the case may be, is competent to grant to him a certificate of registration under this Act may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one-and-a-half times the tax which would have been levied under this Act in respect of the sale to him of the goods if the offence had not been committed.

Imposition of penalty in lieu of prosecution.

Provided that no prosecution for an offence under section 10 shall be instituted in respect of the same facts on which a penalty has been imposed under this section.”

9. In section 13 of the principal Act,—

Amendment of section 13.

(i) for clause (d) of sub-section (1), the following clauses shall be substituted, namely:—

“(d) the form in which and the particulars to be contained in any declaration or certificate to be given under this Act;

(e) the enumeration of goods or class of goods used in the manufacture or processing of goods for sale or in mining or in the generation or distribution of electricity or any other form of power;

(f) the matters in respect of which provision may be made under the proviso to sub-section (3) of section 9;

(g) the fees payable in respect of applications under this Act.”

(ii) in sub-section (4)—

(d) in clause (e), for the words “the authority from which”, the words “the authority from whom, the conditions subject to which and the fees subject to payment of which” shall be substituted;

(b) in clause (g), for the words “the authorities to which” and “the nature”, the words “the authorities to

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whom" and "the name, place or nature" shall respectively be substituted.

Amendment of section 14.

10. In section 14 of the principal Act,—

(i) for item (ia), the following items shall be substituted, namely:—

"(ia) cotton fabrics, as defined in Item No. 12 of the First Schedule to the Central Excises and Salt Act, 1944; 1 of 1944.

(ib) cotton yarn, but not including cotton yarn waste;";

(ii) after item (vi), the following items shall be inserted, namely:—

"(vii) rayon or artificial silk fabrics, as defined in Item No. 12A of the First Schedule to the Central Excises and Salt Act, 1944; 1 of 1944.

(viii) sugar, as defined in Item No. 8 of the First Schedule to the Central Excises and Salt Act, 1944; 1 of 1944.

(ix) tobacco, as defined in Item No. 9 of the First Schedule to the Central Excises and Salt Act, 1944; 1 of 1944.

(x) woollen fabrics, as defined in Item No. 12B of the First Schedule to the Central Excises and Salt Act, 1944." 1 of 1944.

Substitution of new section for section 15.

Restrictions and conditions in regard to tax on sale or purchase of declared goods within a State.

11. For section 15 of the principal Act, the following section shall be substituted, namely:—

"15. Every sales tax law of a State shall, in so far as it imposes or authorises the imposition of a tax on the sale or purchase of declared goods, be subject to the following restrictions and conditions, namely:—

(a) the tax payable under that law in respect of any sale or purchase of such goods inside the State shall not exceed two per cent. of the sale or purchase price thereof, and such tax shall not be levied at more than one stage;

(b) where a tax has been levied under that law in respect of the sale or purchase inside the State of any declared goods and such goods are sold in the course of inter-State trade or commerce, the tax so levied shall be refunded to such person in such manner and subject to such conditions as may be provided in any law in force in that State."

Repeal of section 7 of Act 58 of 1957.

12. Section 7 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, is hereby repealed.



Not Corrected: See India Code *VO 12B A XV P# 63*

THE PUBLIC PREMISES (EVICTION OF  
UNAUTHORISED OCCUPANTS) ACT, 1958

No. 32 OF 1958

[16th September, 1958]

An Act to provide for the eviction of unauthorised occupants from public premises and for certain incidental matters.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1 (1) This Act may be called the Public Premises (Eviction of Short title and extent.  
Unauthorised Occupants) Act, 1958.

(2) It extends to the whole of India.

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

Definitions:

(a) "estate officer" means an officer appointed as such by the Central Government under section 3;

(b) "public premises" means any premises belonging to, or taken on lease or requisitioned by, or on behalf of, the Central Government; and, in relation to the Union territory of Delhi, includes also—

(i) any premises belonging to the Municipal Corporation of Delhi or any municipal committee or notified area committee, and

(ii) any premises belonging to the Delhi Development Authority, whether such premises are in the possession of, or leased out by, the said Authority;

(c) "premises" means any land or any building or part of a building and includes,—

(i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building, and

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

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

(e) "unauthorised occupation", in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation, and includes the continuance an occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

Appoint-  
ment of  
estate  
officers.

3. The Central Government may, by notification in the Official Gazette,—

(a) appoint such persons, being gazetted officers of Government, as it thinks fit to be estate officers for the purposes of this Act; and

(b) define the local limits within which, or the categories of public premises in respect of which, each estate officer shall exercise the powers conferred, and perform the duties imposed, on estate officers by or under this Act.

Issue of  
notice to  
show cause  
against order  
of eviction

4. (1) If the estate officer is of opinion that any persons are in unauthorised occupation of any public premises and that they should be evicted, the estate officer shall issue in the manner hereinafter provided, a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.

(2) The notice shall—

(a) specify the grounds on which the order of eviction is proposed to be made; and

(b) require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in, the public premises, to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than ten days from the date of issue thereof.

(3) The estate officer shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the public premises, and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned.

Not Corrected: See India Code

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(4) Where the estate officer knows or has reasons to believe that any persons are in occupation of the public premises, then, without prejudice to the provisions of sub-section (3), he shall cause a copy of the notice to be served on every such person by post or by delivering or tendering it to that person or in such other manner as may be prescribed.

5. (1) If, after considering the cause, if any, shown by any person in pursuance of a notice under section 4 and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard, the estate officer is satisfied that the public premises are in unauthorised occupation, the estate officer may, on a date to be fixed for the purpose, make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises.

(2) If any person refuses or fails to comply with the order of eviction within forty-five days of the date of its publication under sub-section (1), the estate officer or any other officer duly authorised by the estate officer in this behalf may evict that person from, and take possession of, the public premises and may, for that purpose, use such force as may be necessary.

Provided that in the case of any such person who is not a Government employee and who has been in continuous occupation of the public premises for a period exceeding three years immediately preceding the date of the publication of the order of eviction, the estate officer shall not, if an application is made to him in this behalf, evict such person from the public premises within ninety days of such publication.

6. (1) Where any persons have been evicted from any public premises under section 5, the estate officer may, after giving fourteen days' notice to the persons from whom possession of the public premises has been taken and after publishing the notice in at least one newspaper having circulation in the locality, remove or cause to be removed or dispose of by public auction any property remaining on such premises.

(2) Where any property is sold under sub-section (1), the sale proceeds shall, after deducting the expenses of the sale and the amount, if any, due to the Central Government on account of arrears

of rent or damages, be paid to such person or persons as may appear to the estate officer to be entitled to the same:

Provided that where the estate officer is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same, he may refer such dispute to the civil court of competent jurisdiction and the decision of the court thereon shall be final.

Power to recover rent or damages in respect of public premises as arrears of land revenue.

7. (1) Where any person is in arrears of rent payable in respect of any public premises, the estate officer may, by order, require that person to pay the same within such time and in such instalments as may be specified in the order.

(2) Where any person is, or has at any time been, in unauthorised occupation of any public premises, the estate officer may, having regard to such principles of assessment of damages as may be prescribed, assess the damages on account of the use and occupation of such premises and may, by order, require that person to pay the damages within such time and in such instalments as may be specified in the order:

Provided that no such order shall be made until after the issue of a notice in writing to the person calling upon him to show cause within such time as may be specified in the notice why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the estate officer.

(3) If any person refuses or fails to pay the arrears of rent or any instalment thereof payable under sub-section (1) or the damages or any instalment thereof payable under sub-section (2) within the time specified in the order relating thereto, the estate officer may issue a certificate for the amount due to the Collector who shall proceed to recover the same as an arrear of land revenue.

Power of estate officers.

8. An estate officer shall, for the purpose of holding any inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) any other matter which may be prescribed.

Appeals

9. (1) An appeal shall lie from every order of the estate officer made in respect of any public premises under section 5 or section 7 to an appellate officer who shall be the district judge of the district in which the public premises are situate or such other judicial officer

**Not Corrected: See India Code**

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in that district of not less than ten years' standing as the district  
judge may designate in this behalf.

(2) An appeal under sub-section (1) shall be preferred—

(a) in the case of an appeal from an order under Section 5,  
within thirty days from the date of publication of the order  
under sub-section (1) of that section; and

(b) in the case of an appeal from an order under section 7,  
within thirty days from the date on which the order is commu-  
nicated to the appellant;

Provided that the appellate officer may entertain the appeal after  
the expiry of the said period of thirty days, if he is satisfied that the  
appellant was prevented by sufficient cause from filing the appeal in  
time.

(3) Where an appeal is preferred from an order of the estate  
officer, the appellate officer may stay the enforcement of that order  
for such period and on such conditions as he deems fit.

(4) Every appeal under this section shall be disposed of by the  
appellate officer as expeditiously as possible.

(5) For the purposes of this section, a presidency town shall be  
deemed to be a district and the chief judge or the principal judge  
of the city civil court therein shall be deemed to be the district  
judge of the district.

10. Save as otherwise expressly provided in this Act, every order **Finality of**  
made by an estate officer or appellate officer under this Act shall be **orders.**  
final and shall not be called in question in any original suit, applica-  
tion or execution proceeding.

11. No suit, prosecution or other legal proceeding shall lie against **Protection of**  
the Central Government or the appellate officer or the estate officer **action taken**  
in respect of anything which is in good faith done or intended to be **in good faith.**  
done in pursuance of this Act or of any rules or orders made there-  
under.

12. The Central Government may, by notification in the **Official Delegation**  
Gazette, direct that any power exercisable by it under this Act **of Powers.**  
shall, subject to such conditions, if any, as may be specified in the  
notification, be exercisable also by a State Government or an officer  
of the State Government.

Not Corrected: See India Code

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Power to make rules

13. (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 form of any notice required or authorised to be given under this Act and the manner in which it may be served;

(b) the holding of inquiries under this Act;

(c) the procedure to be followed in taking possession of public premises;

(d) the manner in which damages for unauthorised occupation may be assessed and the principles which may be taken into account in assessing such damages;

(e) the manner in which appeals may be preferred and the procedure to be followed in appeals;

(f) any other matter which has to be, or may be, prescribed

(3) All rules made under this section shall, as soon as may be after they are made, be laid for not less than thirty days before each House of Parliament and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

14. The Public Premises (Eviction) Act, 1950, is hereby repealed. Jxx

*4 omitted by Act 58 of 1960, s. 24 (w.e.f. 26/1/60)*

**THE ESTATE DUTY (AMENDMENT) ACT, 1958**

**No. 33 OF 1958**

[19th September, 1958]

An Act further to amend the Estate Duty Act, 1953.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Estate Duty (Amendment) Act 1958.

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.

31 of 1953.

2. In section 2 of the Estate Duty Act, 1953 (hereinafter referred to as the principal Act)—

Amendment of section 2.

(a) after clause (1), the following clauses shall be inserted, namely:—

(1A) "Appellate Controller" means a person appointed to be an Appellate Controller of Estate Duty under section 4;

11 of 1922.

(1B) "Appellate Tribunal" means the Appellate Tribunal appointed under section 5A of the Indian Income-tax Act, 1922;

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

(12A) "person accountable" or "accountable person" means the person accountable for estate duty within the meaning of this Act, and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of the principal value of the estate of the deceased;

(c) after clause (14), the following clause shall be inserted, namely:—

(14A) "principal officer", in relation to a company or a corporation established by a Central, State or Provincial Act, means the manager, managing director, managing agent or secretary, and includes any person connected with the management of the company or corporation upon whom the Controller has served a notice of his intention of treating him as the principal officer for the purposes of this Act.

Amendment  
of section 4.

3. In section 4 of the principal Act,—

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

"(bb) Appellate Controllers of Estate Duty,"

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

"(2A) The Central Government may appoint as many Appellate Controllers of Estate Duty as it thinks fit and they shall, subject to the control of the Board, perform their functions in respect of such estates or classes of estates or such areas as the Board may direct, and where such directions have assigned to two or more Appellate Controllers the same estate or classes of estates or the same area, 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."

(c) to sub-section (5), the following proviso shall be added, namely:—

"Provided that no such orders, instructions or directions shall be given by the Board so as to interfere with the discretion of the Appellate Controller of Estate Duty in the exercise of his appellate functions."

Amendment  
of section 9.

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

"(2) The provisions of sub-section (1) shall not apply to—

(a) gifts made in consideration of marriage, subject to a maximum of rupees ten thousand in value;



(b) gifts which are proved to the satisfaction of the Controller to have been part of the normal expenditure of the deceased, subject to a maximum of rupees ten thousand in value."

5. In section 16 of the principal Act, in clause (a) of sub-section (2), for the words "otherwise than for full consideration", the words "notwithstanding that the disposition was made for full consideration" shall be substituted. Amendment of section 16.

6. In section 17 of the principal Act, in clause (vi) of sub-section (4), for the word "even", the word "event" shall be substituted. Amendment of section 17.

7. In section 18 of the principal Act, the *Explanation* shall be omitted. Amendment of section 18.

8. In section 19 of the principal Act,—

(a) in sub-section (2), for the words "outside the territories to which this Act extends", the words "outside India" shall be substituted;

(b) in sub-section (4), for the words and figures "section 230 of the Indian Companies Act, 1913 (VII of 1913)" and "section 129 of the Indian Companies Act, 1913," the following words and figures shall respectively be substituted, namely:—

"section 530 of the Companies Act, 1956" and "section 123 of the Companies Act, 1956."

9. In Part II, after section 20 of the principal Act, the following section shall be inserted, namely:—

"20A. Where a company incorporated outside India which carries on business in India has been treated for the purposes of the Indian Income-tax Act, 1922, as resident for two out of the three completed assessments for the years immediately preceding the date of death of any member of or debenture holder in the company, the company shall, within three months of the receipt of intimation of the death of the member or debenture holder, as the case may be, furnish to the Controller such particulars as may be prescribed in respect of the interest of the deceased in the company, and the company shall be accountable for the estate duty which shall be levied at the rates mentioned in Part II of the Second Schedule on the principal value of the shares or debentures held by the deceased in the company except in cases where the deceased was a person domiciled in India and the person accountable under any of the

Insertion of new section 20A.

Duty and liability of companies incorporated outside India in certain cases.

I of 1956.

I of 1956.

II of 1922.

other provisions of this Act has obtained a certificate from the Controller showing that either the estate duty in respect thereof has been paid or will be paid or that none is due, as the case may be."

Amendment  
of section  
21.

10. In section 21 of the principal Act, in sub-section (1), for the words "outside the territories to which this Act extends" and "the said territories", wherever they occur, the words "outside India" and "India" shall respectively be substituted.

Amendment  
of section  
27.

11. In section 27 of the principal Act, for the word and figure "section 9" in both the places where they occur, the words "this Act" shall be substituted.

Amendment  
of section  
33.

12. In section 33 of the principal Act, in sub-section (T),—

(a) in clause (a), for the words "under a gift", the words "under one or more gifts" shall be substituted;

(b) in clause (b), for the words "under a gift", the words "under one or more gifts" shall be substituted;

(c) in clause (k), for the words "rupees five thousand", the words "rupees ten thousand" shall be substituted;

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

(l) any one building in the occupation of a Ruler declared by the Central Government as his official residence under Paragraph 13 of the Merged States (Taxation Concessions) Order, 1949, or Paragraph 15 of the Part B States (Taxation Concessions) Order, 1950;

(m) property belonging to the deceased who was a member of the armed forces of the Union and who was killed in action during operations against an enemy."

Substitution  
of new sec-  
tion for  
section 34.

13. For section 34 of the principal Act, the following section shall be substituted, namely:—

Aggregation.

"34. (1) For the purpose of determining the rate of the estate duty to be paid on any property passing on the death of the deceased,

(a) all property so passing other than property exempted from estate duty under clauses (c), (d), (e), (i), (j), (l) and (m) of sub-section (1) of section 33;

(b) agricultural land so passing, if any, situate in any State not specified in the First Schedule; and

(c) in the case of property so passing which consists of a coparcenary interested in the joint family property of a Hindu family governed by the *Mitakshara*, *Marumakkattayam* or *Aliyasantana* law, also the interests in the joint family property of all the lineal descendants of the deceased member;

shall be aggregated so as to form one estate and estate duty shall be levied thereon at the rate or rates applicable in respect of the principal value thereof.

(2) Where any such estate as is referred to in sub-section (1) includes any property exempt from estate duty, the estate duty leviable on the property not so exempt shall be an amount bearing to the total amount of duty which would have been payable on the whole estate had no part of it been so exempt, the same proportion as the value of the property not so exempt bears to the value of the whole estate.

*Explanation.*—For the purposes of this sub-section, “property exempt from estate duty” means—

(i) any property which is exempt from estate duty under section 33;

(ii) any agricultural land situate in any State not specified in the First Schedule;

(iii) the interests of all coparceners other than the deceased in the joint family property of a Hindu family governed by the *Mitakshara*, *Marumakkattayam* or *Aliyasantana* law.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), any property passing in which the deceased never had an interest, not being a right or debt or benefit that is treated as property by virtue of the *Explanations* to clause (15) of section 2, shall not be aggregated with any property, but shall be an estate by itself and the estate duty shall be levied at the rate or rates applicable in respect of the principal value thereof.

(4) Every estate shall include all income accrued upon the property included therein down to and outstanding at the date of the death of the deceased.

(5) For the purposes of this section, no property shall be aggregated more than once nor shall estate duty in respect thereof be levied more than once on the same death.

Amendment of section 35.

14. In section 35 of the principal Act,—  
 (a) for sub-section (1), the following sub-section shall be substituted, namely:—  
 "(1) The rates of estate duty shall be as mentioned in the Second Schedule."  
 (b) sub-section (2) shall be omitted.

Amendment of section 46.

15. In section 46 of the principal Act, in sub-section (2), for the figures "25", the figures "26" shall be substituted.

Amendment of section 47.

16. In section 47 of the principal Act, for the words "out of the territories to which this Act extends" and the words "the said territories" wherever they occur, the words "out of India" and "India" shall respectively be substituted.

Amendment of section 48.

17. In section 48 of the principal Act, for the words "out of the territories to which this Act extends", the words "out of India" shall be substituted.

Amendment of section 50.

18. In section 50 of the principal Act, for the words "an amount which is equal to", the words "an amount which is equal to one-half of" shall be substituted.

Insertion of new section 50A.

19. In Part VI, after section 50 of the principal Act, the following section shall be inserted, namely:—

Relief from estate duty where gift-tax has been paid.

50A. Where tax has been paid under the Gift-tax Act, 1958, in respect of a gift of any property and the property is also included in the estate of the donor as property passing under this Act, then, notwithstanding anything contained in this Act, the estate duty payable under this Act shall be reduced by an amount equal to the amount of gift-tax paid in respect of any such property under that Act.

8 of 1958

Amendment of section 53.

20. In section 53 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Every person accountable for estate duty under this section shall, within six months of the death of the deceased, deliver to the Controller an account in the prescribed form and verified in the prescribed manner of all the properties in respect of which estate duty is payable:

Provided that the Controller may extend the period of six months aforesaid on such terms which may include payment of interest as may be prescribed."

21. For sections 56, 57, 58, 59, 60, 61, 62, 63, 64 and 65 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 56 to 65.

“56 (1) In all cases in which a grant of representation is applied for—

Grant of representation, etc., not to be made unless particulars are furnished to the Controller.

(a) the executor of the deceased shall to the best of his knowledge and belief, specify in an appropriate account annexed to the affidavit of valuation filed in court under section 19-1 of the Court-fees Act, 1870, all the property in respect of which estate duty is payable upon the death of the deceased and shall deliver a copy of the affidavit with the account to the Controller, and

of 1870.

(b) no order entitling the applicant to the grant of representation shall be made upon his application until he has delivered the account prescribed in clause (a) and has produced a certificate from the Controller under sub-section (2) of section 57 or section 67 that the estate duty payable in respect of the property included in the account has been or will be paid, or that none is due, as the case may be.

(2) In all cases in which a grant of a succession certificate is applied for, a copy of the application shall be furnished by the applicant to the Controller and no order entitling the applicant to the grant of such a certificate shall be made upon his application until he has produced a certificate from the Controller under sub-section (2) of section 57 or section 67 that the estate duty payable in respect of the property mentioned in the application has been or will be paid, or that none is due, as the case may be.

57. (1) Estate Duty shall be due from the date of the death of the deceased, and the Controller may, at any time after the receipt of account delivered under section 53 or section 56, proceed to make in a summary manner a provisional assessment of the estate duty payable by the person delivering the account on the basis of the account so delivered.

Power to make provisional assessment in advance of regular assessment.

(2) Upon a provisional assessment being made under sub-section (1), the person so assessed shall pay to the Controller or furnish security to the satisfaction of the Controller for the payment of the estate duty, if any, payable on the provisional assessment, and the Controller shall thereupon grant him a certificate that such duty has been or will be paid or that none is due, as the case may be, in respect of the property mentioned in the certificate.

(3) After regular assessment has been made under section 58 any amount paid towards the provisional assessment made under sub-section (1) shall be deemed to have been paid towards the regular assessment.

(4) No appeal shall lie against a provisional assessment made under sub-section (1), but nothing done or suffered by reason or in consequence of any such provisional assessment shall prejudice the determination on the merits of any issue which may arise in the course of the regular assessment under section 58.

Assessment:

58. (1) If the Controller is satisfied without requiring the presence of the person accountable that an account delivered under section 53 or section 56 is correct and complete, he shall assess the principal value of the estate of the deceased, and shall determine the amount payable as estate duty.

(2) If the Controller is not so satisfied, he shall serve a notice on the person accountable, either to attend in person at his office on a date to be specified in the notice, or to produce, or cause to be produced on that date, any evidence on which the person accountable may rely in support of his account.

(3) The Controller, after hearing such evidence as the person accountable may produce and such other evidence as he may require on any specified points, shall, by order in writing, assess the principal value of the estate of the deceased and determine the amount payable as estate duty.

(4) In any case where no account has been delivered as required by section 53 or section 56, or the person accountable fails to comply with the terms of the notice served under sub-section (2), the Controller shall make the assessment to the best of his judgment and determine the amount payable as estate duty.

Property  
escaping  
assessment:

59. If the Controller—  
(a) has reason to believe that by reason of the omission or failure on the part of the person accountable to submit an account of the estate of the deceased under section 53 or section 56 or to disclose fully and truly all material facts necessary for assessment, any property chargeable to estate duty has escaped assessment by reason of under-valuation of the property included in the account or of omission to include therein any property which ought to have been included or of assessment at too low a rate or otherwise, or

(b) has, in consequence of any information in his possession, reason to believe notwithstanding that there has not

been such omission or failure as is referred to in clause (a) that any property chargeable to estate duty has escaped assessment, whether by reason of under-valuation of the property included in the account or of omission to include therein any property which ought to have been included, or of assessment at too low a rate or otherwise,

he may at any time, subject to the provisions of section 73A, require the person accountable to submit an account as required under section 53 and may proceed to assess or re-assess such property as if the provisions of section 58 applied thereto:

60. (7) If the Controller, the Appellate Controller or the Appellate Tribunal, in the course of any proceedings under this Act, is satisfied that any person—

Penalty for default or concealment.

(a) has without reasonable cause failed to deliver the account of the property of the deceased under section 53 or section 56 or to comply with any requisition of the Controller under section 55 or section 59 or has without reasonable cause failed to deliver or submit any of the accounts or statements required under any of the sections aforesaid within the time allowed and in the manner required; or

(b) has without reasonable cause failed to comply with a notice under sub-section (2) of section 58; or

(c) has concealed the particulars of the property of the deceased or deliberately furnished inaccurate particulars thereof; or

(d) being a company referred to in section 20A, fails without reasonable cause, to pay the amount of estate duty due from the company under that section within the time specified in this behalf;

he or it may, by order in writing, direct that—

such person shall pay by way of penalty—

(i) in the case referred to in clause (a) or clause (d), in addition to the amount of the estate duty payable by him, a sum not exceeding twice the amount of such duty; and

(ii) in the case referred to in clause (b) or clause (c), in addition to the amount of estate duty payable by him, a sum not exceeding twice the amount of the estate duty, if any, which would have been avoided if the principal value shown in the account of such person had been accepted as correct.

(2) No order shall be made under sub-section (1) unless the person concerned has been given a reasonable opportunity of being heard.

Rectification of mistakes.

61. At any time within five years from the date of any order passed by him or it, the Controller, the Appellate Controller or the Appellate Tribunal may, on his or its own motion rectify any mistake apparent from the record and shall, within a like period rectify any such mistake which has been brought to the notice of the Controller, the Appellate Controller or the Appellate Tribunal, as the case may be, by the person accountable:

Provided that no such rectification shall be made which has the effect of enhancing the estate duty payable unless the person accountable has been given a reasonable opportunity of being heard in the matter.

Appeal against orders of Controller.

62. (1) Any person,

- (a) objecting—
  - (i) to any valuation made by the Controller, or
  - (ii) to any order made by the Controller determining the estate duty payable under section 58 or section 59, or
  - (iii) to any penalty levied by the Controller under section 60, section 72 or section 84, or
  - (iv) to any penalty imposed by the Controller under sub-section (1) of section 46 of the Indian Income-tax Act, 1922, as applied under sub-section (5) of section 73 for the purposes of estate duty, or

(b) denying his liability to the amount of estate duty payable in respect of any property may, within thirty days of the date of the receipt of the notice of demand under section 73, appeal to the Appellate Controller in the prescribed form which shall be verified in the prescribed manner:

Provided that no appeal shall lie under sub-clause (iv) of clause (a), unless the duty has been paid before the appeal is filed.

(2) The Appellate Controller may admit an appeal after the expiry of the thirty days referred to in sub-section (1) if he is satisfied that there was sufficient cause for not presenting it within that period.

(3) The Appellate Controller shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing.



(4) The Appellate Controller may—  
 (a) at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal;

(b) before disposing of an appeal, make such further inquiry as he thinks fit or cause further inquiry to be made by the Controller.

(5) In disposing of an appeal, the Appellate Controller may pass such order as he thinks fit which may include an order enhancing the estate duty or penalty.

Provided that no order enhancing the estate duty payable or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) The Appellate Controller shall, on the conclusion of the appeal, communicate the order passed by him to the appellate and to the Controller.

(1) Any person accountable objecting to any order passed by an Appellate Controller under section 62, may appeal to the Appellate Tribunal within sixty days of the date on which he is served with notice of such order.

Appeal to the Appellate Tribunal from the order of the Appellate Controller.

(2) The Controller may, if he is not satisfied as to the correctness of any order passed by the Appellate Controller under section 62, appeal to the Appellate Tribunal against such order and such appeal may be made at any time before the expiry of sixty days of the date on which the order is communicated to the Controller.

(3) The Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if it is satisfied that there was sufficient cause for not presenting it within that period.

(4) 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 under sub-section (2), be accompanied by a fee of rupees one hundred.

(5) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit and any such orders may include an order enhancing the estate duty payable or penalty.

Provided that no order enhancing the estate duty payable or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) Where the appellant objects to the valuation of any property, the Appellate Tribunal may, and if the appellant so requires, shall, refer the question of disputed value to the arbitration of two valuers, one of whom shall be nominated by the appellant and the other by the respondent, and the Tribunal shall, so far as that question is concerned, pass its orders under sub-section (5) conformably to the decision of the valuers:

Provided that if there is a difference of opinion between the two valuers, the matter shall be referred to a third valuer nominated by agreement, or failing agreement, by the Appellate Tribunal, and the decision of that valuer on the question of valuation shall be final.

(7) The costs of any arbitration proceeding under sub-section (6) shall be borne by the Central Government or the person accountable, as the case may be, at whose instance the question was referred to the valuers.

Provided that where the person accountable has been wholly or partially successful in any reference made at his instance, the extent to which the costs shall be borne by him shall be at the discretion of the Appellate Tribunal.

(8) The valuers may, in disposing of any matter referred to them for arbitration under sub-section (6), hold an inquiry as to be held such inquiry as they think fit, and after giving the appellant and the respondent an opportunity of being heard, pass such orders thereon as they think fit and shall send a copy of such orders to the Appellate Tribunal.

(9) A copy of every order passed by the Appellate Tribunal under this section shall be forwarded to the person accountable and to the Controller.

(10) Save as provided in section 64 any order passed by the Appellate Tribunal on appeal shall be final.

(11) The provisions of sub-sections (5), (7) and (8) of section 5A of the Indian Income-tax Act, 1922, shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under that Act.

64. (1) Within ninety days of the date upon which he is served with an order under section 33, the person accountable or the Controller may present an application in the prescribed form and, where the application is by the person accountable, accompanied by a fee of one hundred rupees to the Appellate Tribunal requiring the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall, if in its opinion a question of law arises out of such order, state the case for the opinion of the High Court.

Reference  
to the High  
Court.

(2) An application under sub-section (1) may be admitted after the expiry of the period of ninety days aforesaid if the Appellate Tribunal is satisfied that there was sufficient cause for not presenting it within the said period.

(3) If, on an application made under sub-section (1), the Appellate Tribunal,—

(a) refuses to state a case on the ground that no question of law arises; or

(b) rejects it on the ground that it is time-barred;

the applicant may, within three months from the date on which he is served with a notice of refusal or rejection, as the case may be, 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 to the High Court, and on receipt of such requisition the Appellate Tribunal shall state the case:

Provided that, if in any case where the Appellate Tribunal has been required by a person accountable to state a case the Appellate Tribunal refuses to do so on the ground that no question of law arises, the person accountable may, within thirty days from the date on which he receives notice of refusal to state the case, withdraw the application, and if he does so, the fee paid by him under sub-section (1) shall be refunded to him.

(4) The statement to the High Court shall set forth the facts, the determination of the Appellate Tribunal and the question of law which arises out of the case.

(5) If the High Court is not satisfied that the case as stated is sufficient to enable it to determine the question of law raised thereby, it may require the Appellate Tribunal to make such modifications therein as it may direct.

(6) The High Court, upon hearing any such case, shall decide the question of law raised thereby, and in doing so, may, if it thinks fit, alter the form of the question of law and shall deliver judgment thereon containing the ground on which such decision is founded and shall send a copy of the judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal and the Appellate Tribunal shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(7) Where the amount of any assessment is reduced, as a result of any reference to the High Court, the amount, if any, over-paid as estate duty shall be refunded with such interest as the Controller may allow unless the High Court, on intimation being given by the Controller within thirty days of the receipt of the result of such reference that he intends to ask for leave to appeal to the Supreme Court, makes an order authorising the Controller to postpone payment of such refund until the disposal of the appeal in the Supreme Court.

(8) The costs of any reference to the High Court shall be in the discretion of the High Court.

(9) Section 5 of the Indian Limitation Act, 1908, shall apply of 1908, to an application to the High Court under this section.

(10) When a case has been stated to the High Court under this section, 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:

Provided that 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.

65. (1) An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a case stated under section 64 in any case which the High Court certifies as a fit case for appeal to the Supreme Court.

(2) Where the judgment of the High Court is varied or reversed on appeal under this section, effect shall be given to the order of the Supreme Court in the manner provided in subsection (6) of section 64.

Appeal to  
the Supreme  
Court.

(3) The High Court may, on application made to it for the execution of any order of the Supreme Court in respect of any costs awarded by it, transmit the order for execution to any court subordinate to the High Court."

22. For section 67 of the principal Act, the following section shall be substituted, namely:—

Substitution  
of new sec-  
tion for  
section 67.

"67. Where the amount of estate duty determined by the Controller as payable on an assessment made under section 58 has been paid by the person accountable, the Controller shall, on application by that person, grant to him a certificate to that effect."

Certificate of  
payment of  
estate duty.

23. In section 70 of the principal Act, in sub-section (2), for the words "eight" and "sixteen", the words "four" and "eight" shall respectively be substituted.

Amendment  
of section  
70.

24. In section 72 of the principal Act, for the words and figures "shall be liable to the penalty mentioned in section 56", the following shall be substituted, namely:—

Amendment  
of section  
72.

"shall be liable to pay by way of penalty a sum not exceeding rupees one thousand: provided that no penalty shall be imposed under this section unless the person concerned has been given a reasonable opportunity of being heard."

25. For section 73 of the principal Act, the following sections shall be substituted, namely:—

Substitution  
of new  
sections for  
section 73.

"73. (1) When any estate duty, penalty or interest is due in consequence of any order passed under this Act, the Controller shall serve upon the person accountable or other person liable to pay such duty, penalty or interest a notice of demand in the prescribed form specifying the sum so payable and the time within which it shall be payable.

Notice of  
demand and  
recovery of  
duty,  
penalty, etc.

(2) Any amount specified as payable in a notice of demand issued under sub-section (1) shall be paid within the time, at the place and to the person mentioned in the notice, or if no time is so mentioned, then on or before the first day of the second month following the date of service of the notice and any person accountable failing so to pay shall be deemed to be in default.

(3) Where a person accountable has been assessed in respect of assets located in a country outside India, the laws of which

prohibit or restrict the remittance of money to India, the Controller shall not treat the person accountable as in default in respect of that part of the estate duty which is attributable to the assets in that country, and shall continue to treat the person accountable as not in default in respect of that part of the duty until the prohibition or restriction of remittance is removed.

(4) Notwithstanding anything contained in this section, where the person accountable has presented an appeal under section 62 the Controller may in his discretion treat the person accountable as not being in default as long as such appeal has not been disposed of.

(5) The provisions of sub-sections (1), (1A), (2), (3), (4), (5), (5A), (6) and (7) of section 46 and section 47 of the Indian Income-tax Act, 1922, shall apply as if the said provisions were provisions of this Act and referred to estate duty (including estate duty provisionally assessed) and sums imposed by way of penalty or interest under this Act instead of to income-tax and sums imposed by way of penalty or interest under that Act and to Controller of Estate Duty instead of to Income-tax Officer.

Limitation  
for com-  
mencing  
proceedings  
for assess-  
ment or re-  
assessment.

73A. No proceedings for the levy of any estate duty under this Act shall be commenced—

(a) in the case of a first assessment, after the expiration of five years from the date of death of the deceased in respect of whose property estate duty became payable; and

(b) in the case of a re-assessment, after the expiration of three years from the date of assessment of such property to estate duty under this Act.”

Amendment  
of section  
83.

26. In section 83 of the principal Act,—

(a) after the words “legal practitioner or a chartered accountant”, the words “or any other person having such qualifications as may be prescribed” shall be inserted; and

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

‘(b) “legal practitioner” means an advocate, vakil or attorney of any High Court, and includes a pleader in practice.’

27. For section 84 of the principal Act, the following section shall be substituted, namely:—

Substitution  
of new sec-  
tion for  
section 84.

I. of 1956

"84. (1) Where a company within the meaning of the Companies Act, 1956, has knowledge through any of its principal officers of the death of any member of or debenture-holder in the company, it shall within three months of receipt of intimation of the death, furnish to the Controller such particulars as may be prescribed in respect of the interest of the deceased in the company; and it shall not be lawful for the company to register the transfer of any shares or debentures standing in the name of the deceased unless the transferee has acquired such shares or debentures for valuable consideration or a certificate from the Controller is produced before the company to the effect that the estate duty in respect of such shares or debentures has been paid or will be paid or that none is due, as the case may be.

Companies  
to furnish  
particulars  
of deceased  
persons to  
the Control-  
ler.

(2) Where a corporation established by a Central, State or Provincial Act has knowledge through any of its principal officers of the death of any person who is a registered holder of stocks, shares or other securities in the corporation, it shall, within three months of the receipt of intimation of the death furnish to the Controller such particulars as may be prescribed in respect of the interest of the deceased in the corporation.

(3) Any company or corporation which without reasonable cause fails to comply with the provisions of this section shall be liable to pay a penalty of rupees one thousand."

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

Amendment  
of the Second  
Schedule.

"THE SECOND SCHEDULE

(See sections 5, 20A and 35)

RATES OF ESTATE DUTY

PART I

In the case of any property which passes or is deemed to pass on the death of the deceased—

	<i>Rate of Duty</i>
(1) On the first Rs. 50,000 of the principal value of the estate	Nil
(2) On the next Rs. 50,000 of the principal value of the estate	... 4 per cent.

	<i>Rate of Duty</i>
(3) On the next Rs. 50,000 of the principal value of the estate	6 per cent.
(4) On the next Rs. 50,000 of the principal value of the estate	10 per cent.
(5) On the next Rs. 1,00,000 of the principal value of the estate	12 per cent.
(6) On the next Rs. 2,00,000 of the principal value of the estate	15 per cent.
(7) On the next Rs. 5,00,000 of the principal value of the estate	20 per cent.
(8) On the next Rs. 10,00,000 of the principal value of the estate	25 per cent.
(9) On the next Rs. 10,00,000 of the principal value of the estate	30 per cent.
(10) On the next Rs. 20,00,000 of the principal value of the estate	35 per cent.
(11) On the balance of the principal value of the estate	40 per cent.

## PART II

In the case of shares or debentures held by the deceased in any such company as is referred to in section 20A—

	<i>Rate of Duty</i>
(1) If the principal value of the shares or debentures does not exceed Rs. 5,000	<i>Nil</i>
(2) If the principal value of the shares or debentures exceeds Rs. 5,000	7½ per cent."

Savings.

29. Nothing contained in section 21 shall affect—

(a) any appeal pending before the Board in respect of any order made by the Controller before the commencement of this Act; or

(b) any right or remedy by way of appeal which has accrued to any person in respect of any order made by the Controller before such commencement;

and any such appeal may be disposed of and further proceedings taken in relation thereto and any such right or remedy may be enforced as if this Act had not been passed.



30. For the removal of doubts it is hereby declared that nothing Act not to contained in this Act shall have effect in respect of any matter apply to enumerated in entry 48 of List II in the Seventh Schedule to the agricultural land. Constitution, and estate duty in respect of any estate which consists wholly or in part of agricultural land situate in the territories which immediately before the 1st day of November, 1956, were comprised in the States specified in the First Schedule to the principal Act shall continue to be governed by the principal Act as if this Act had not been passed.

Rep. by Act 58 of 1958, No. 24 Sch. I (No. 1261260)

THE BANARAS HINDU UNIVERSITY (AMENDMENT) ACT, 1958

No. 34 OF 1958

[20th September, 1958]

An Act further to amend the Banaras Hindu University Act, 1915.

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

Short title. 1. This Act may be called the Banaras Hindu University (Amendment) Act, 1958.

Substitution of new section for section 9. 2. For section 9 of the Banaras Hindu University Act, 1915 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

The Court.

“9. The functions of the Court shall be—

(a) to advise the Visitor in respect of any matter which may be referred to it for advice;

(b) to advise any authority of the University in respect of any matter which may be referred to the Court by such authority; and

(c) to perform such other duties and exercise such other powers as may be assigned to it by the Visitor or under this Act.”

Insertion of new section 12A.

3. After section 12 of the principal Act, the following section shall be inserted, namely:—

Proceedings of University authorities or bodies not to be invalidated by vacancies, etc.

“12A. No act or proceeding of any authority or body of the University shall be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution thereof.”

Amendment of section 17.

4. In section 17 of the principal Act, for sub-sections (3), (4), (5), (6) and (7), the following sub-section shall be substituted, namely:—

“(3) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes; but every new Statute or addition to the Statutes or any amend-

[ACT 34 OF 1958] *Banaras Hindu University (Amendment)* 177

ment or repeal of a Statute shall require the previous approval of the Visitor who may sanction, disallow or remit it for further consideration.”.

5. In section 18 of the principal Act, for sub-sections (5), (6), (7) and (8), the following sub-sections shall be substituted, namely:— Amendment of section 18.

“(5) Where the Executive Council has rejected the draft of an Ordinance proposed by the Academic Council, the Academic Council may appeal to the Visitor who may pass such order thereon as he thinks fit.

(6) All Ordinances made by the Executive Council shall be submitted, as soon as may be, to the Visitor who may, within two months from the date of receipt thereof disallow any such Ordinance or remit it to the Executive Council for further consideration.

(7) The Visitor may, by order, direct that the operation of any Ordinance shall be suspended until he has had an opportunity of exercising his power of disallowance, and any order of suspension under this sub-section shall cease to have effect on the expiration of two months from the date of such order.”.

6. In section 19 of the principal Act, the proviso to sub-section (3) shall be omitted. Amendment of section 19.

7. The Statutes of the University shall be amended as follows:— Amendment of Statutes

(i) in clause (2) of Statute 4 and clauses (2) and (3) of Statute 6, the words “at the next annual meeting of the Court” shall be omitted;

(ii) in Statute 12,—

(a) clause (2) shall be omitted;

(b) in clause (5)(a), the words “and the Court” shall be omitted;

(iii) for Statute 14, the following Statute shall be substituted, namely:—

“14. (1) The Court shall consist of the following members, namely:— The Court.

(a) the Chancellor, *ex-officio*,

(b) the Pro-Chancellor, *ex officio*,

(c) the members of the Executive Council, *ex officio*,

(d) two persons from the Departments and Colleges of the University, nominated by the Visitor,

(e) two persons from among the teachers of the University other than Professors, nominated by the Visitor,

(f) five persons from among the old students of the University, nominated by the Visitor,

(g) three members of Parliament, two to be nominated by the Speaker of the House of the People from among the members thereof and one to be nominated by the Chairman of the Council of States from among the members thereof,

(h) twenty-nine persons nominated by the Visitor from among persons who are men of standing in public life, or have special knowledge or practical experience in education or have rendered eminent services in the cause of education.

(2) Seventeen members of the Court shall form a quorum.”;

(iv) Statute 16 shall be omitted;

(v) for Statute 17, the following Statute shall be substituted, namely:—

“17. (1) The Executive Council shall consist of the following members, namely:—

(a) the Vice-Chancellor, *ex officio*,

(b) seven persons nominated by the Visitor,

(c) one person nominated by the Chief Rector.

(2) Five members of the Executive Council shall form a quorum.”;

(vi) in Statute 18,—

(a) in clause (1), for the word “Court”, the word “Visitor” shall be substituted; and the words “not otherwise provided for” shall be omitted;

(b) in clause (2) (viii), the words “otherwise than by an act of the Court” shall be omitted;

(vii) in Statute 20, in item (i), the words “the Court or” shall be omitted;

(viii) in Statute 28, for the words “The Court, the Executive Council”, the words “The Executive Council” shall be substituted;

(ix) for Statute 29, the following Statute shall be substituted, namely:—

“29. (1) The Selection Committee for making recommendations to the Executive Council in respect of any appointment specified in column (1) of the Table below shall consist of the Vice-Chancellor who shall be the Chairman thereof, the Pro-Vice-Chancellor and the persons specified in the corresponding entry in column (2) of the said Table. Selection Committee.

THE TABLE

(1)	(2)
Professor.	Three persons not connected with the University, nominated by the Executive Council, who have special knowledge of, or interest in, the subject with which the person to be appointed will be concerned.
Reader. } Lecturer. }	1. The Dean of the Faculty concerned with the subject with which the person to be appointed will be concerned.  2. The Head of the Department concerned with the subject with which the person to be appointed will be concerned.  3. Two persons not connected with the University, nominated by the Executive Council, who have special knowledge of, or interest in, the subject with which the person to be appointed will be concerned.
Registrar.	Three members of the Executive Council nominated by it.

(2) The procedure to be followed by the Selection Committee in making recommendations shall be determined by the Executive Council.

(3) If the Executive Council is unable to accept any recommendations made by the Committee, it shall record its reasons and submit the case to the Visitor for final orders.”;

(x) for Statute 30, the following Statute shall be substituted, namely:—

Power to inquire into the cases of certain persons connected with the University.

“30. (1) If the Executive Council has reason to believe that the continuance in office of any person who on the 14th day of June, 1958, was holding any teaching, administrative or other post in the University would be detrimental to the interests of the University, it may, after recording briefly the grounds for such belief, refer the case of any such person, together with the connected papers, if any, in its possession, to the Solicitor-General to the Government of India:

Provided that, where an allegation of the nature referred to in this sub-section relates to a member of the Executive Council who was holding any teaching, administrative or other post in the University on the said date, the Executive Council shall, without considering the allegation, refer the case of such person, together with a copy of the allegation, to the Solicitor-General to the Government of India.

(2) If on any such reference the Solicitor-General to the Government of India is of opinion that there is a *prima facie* case for inquiry, he shall refer the case of the person concerned to a Committee to be constituted for the purpose by the Central Government and known as the Reviewing Committee, which shall consist of the following persons, namely:—

(a) a person who is or has been a Judge of a High Court nominated by the Central Government who shall be the Chairman of the Committee; and

(b) two persons nominated by the Central Government from among persons who have had administrative or other experience in educational matters.

(3) It shall be the duty of the Reviewing Committee to examine the case of every person referred to it by the Solicitor-General; and the Reviewing Committee shall, after holding such inquiry into the case as it may think fit, and after giving to the person concerned an opportunity of being heard, if he so desires, forward its recommendations to the Executive Council.

(4) The meetings of the Reviewing Committee shall be convened by such person as may be appointed for this purpose by the Chairman.

(5) On receipt of the recommendations of the Reviewing Committee, the Executive Council shall take such action thereon as it may think fit:

Provided that when the recommendations relate to any such person as is referred to in the proviso to sub-section (1), such person shall not take part in any meeting of the Executive Council in which the recommendations are considered.

(6) Before taking any action against any person on the recommendations of the Reviewing Committee, the Executive Council shall give him a reasonable opportunity of being heard.”;

(xi) in Statute 35, for the words “the Annual Meeting”, the word “meetings” shall be substituted;

(xii) in Statute 36, for the words “an Annual Meeting”, the words “a meeting” shall be substituted, and the words “or as a member of the Court or of the Executive Council” shall be omitted;

(xiii) in Statute 42, the words “and entitled to vote at the election” shall be omitted.

8. (1) Every person holding office as a member of the Court or the Executive Council, as the case may be, immediately before the 14th day of June, 1958, shall on and from the said date cease to hold office as such: Transitional provision.

Provided that where any such person held immediately before such date any other office in the University, nothing contained in this sub-section shall be construed to affect his continuance in such other office.

(2) Until the Court or the Executive Council is constituted in accordance with the provisions of clause (iii) or clause (v), as the case may be, of section 7, the Visitor may, by general or special order, direct any officer of the University to exercise the powers and discharge the duties conferred or imposed by or under the principal Act, as amended by this Act, on the Court or the Executive Council, as the case may be.

4 of 1958. 9. (1) The Banaras Hindu University (Amendment) Ordinance, 1958, is hereby repealed. Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 14th day of June, 1958.

THE MANIPUR AND TRIPURA (REPEAL OF LAWS)  
ACT, 1958

No. 35 OF 1958

[6th October, 1958]

An Act to provide for the repeal of certain laws in force in the Union territories of Manipur and Tripura.

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

**Short title.** 1. This Act may be called the Manipur and Tripura (Repeal of Laws) Act, 1958.

**Repeal of Manipur Co-operative Societies Act, 1947.** 2. On and from the date on which the Assam Co-operative Societies Act, 1949, is extended by notification under section 2 of the Union Territories (Laws) Act, 1950, to the Union territory of Manipur, the Manipur Co-operative Societies Act, 1947, shall stand repealed. Assam Act I of 1950. 30 of 1950.

**Repeal of Tripura Co-operative Societies and Money-lenders Acts.** 3. On and from the date on which the Bombay Co-operative Societies Act, 1925, or the Bombay Money-lenders Act, 1946, is extended by notification under section 2 of the Union Territories (Laws) Act, 1950, to the Union territory of Tripura, the Tripura Co-operative Societies Act of 1358 T.E., or the Tripura Kushid Niyamak Bidhi, as the case may be, shall stand repealed. Bombay Act VII of 1925. Bombay Act XXXI of 1947. 30 of 1950. 2 of 1313 T. E.

**Savings.** 4. (1) The repeal of any law by section 2 or section 3 shall not affect—

(a) the previous operation of such law or anything duly done or suffered thereunder,

(b) any right, privilege, obligation or liability acquired, accrued or incurred under such law,

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against such law, or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if such law had not been repealed.



(2) Subject to the provisions contained in sub-section (1), anything done or any action taken (including any appointment or delegation made, notification, instruction or direction issued, form, bye-law or scheme framed, certificate obtained, permit or licence granted or registration effected) under any law repealed by section 2 or section 3 shall be deemed to have been done or taken under the corresponding provisions of the Act extended by notification as provided in that section to the Union territory of Manipur or Tripura, as the case may be, and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under the said Act.

Rep. by Act 58 of 1958 (S. 24 Sec 8 (w.e.f. 26.12.60))

THE INDIAN MEDICAL COUNCIL (AMENDMENT)  
ACT, 1958

No. 36 OF 1958

[6th October, 1958]

An Act to amend the Indian Medical Council Act, 1956.

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

**Short title.** 1. This Act may be called the Indian Medical Council (Amendment) Act, 1958.

**Substitution of new section for section 34.** 2. For section 34 of the Indian Medical Council Act, 1956, the following section shall be substituted and shall be deemed always to have been substituted, namely:—

**Repeal of Act 27 of 1933.** "34. (1) The Indian Medical Council Act, 1933, is hereby repealed.

(2) Notwithstanding anything contained in this Act, until the Council is constituted in accordance with the provisions of this Act,—

(a) the Medical Council of India as constituted immediately before the commencement of this Act under the Indian Medical Council Act, 1933, with the addition of seven members nominated thereto by the Central Government from among persons enrolled on any of the State Medical Registers who possess the medical qualifications included in Part I of the Third Schedule to this Act (hereinafter referred to as the said Medical Council) shall be deemed to be the Council constituted under this Act and may exercise any of the powers conferred or perform any of the duties imposed on the Council; and any vacancy occurring in the said Medical Council may be filled up in such manner as the Central Government may think fit; and

(b) the Executive Committee and other Committees of the said Medical Council as constituted immediately before the commencement of this Act shall be deemed to be the Executive Committee and other Committees constituted under this Act."

# THE RAJGHAT SAMADHI (AMENDMENT) ACT, 1958

No. 37 OF 1958

[6th October, 1958]

An Act to amend the Rajghat Samadhi Act, 1951.

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

1. (1) This Act may be called the Rajghat Samadhi (Amendment) Act, 1958. 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.

41 of 1951.

2. In section 4 of the Rajghat Samadhi Act, 1951 (hereinafter referred to as the principal Act),— Amendment of section 4.

(a) in sub-section (1),—

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

“(a) the Mayor of the Municipal Corporation of Delhi, *ex-officio*,”;

(ii) for clauses (c) and (d), the following clauses shall be substituted, namely:—

“(c) four non-officials nominated by the Central Government;

(d) three members of Parliament of whom two shall be elected from among themselves by members of the House of the People and one from among themselves by members of the Council of States.”;

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

“(4) The term of office of a member elected under clause (d) of sub-section (1) shall come to an end as soon as he ceases to be a member of the House from which he was elected.”.

3. Any member of Parliament nominated by the Speaker under clause (d) of sub-section (1) of section 4 of the principal Act and holding office as a member of the Rajghat Samadhi Committee immediately before the commencement of this Act shall cease to hold the said office on such commencement. Members of Parliament nominated to the committee by the Speaker to cease to hold office.

Rep. by Act

50 of 1958

50 of 1958) b-2d gen I (w of 26R60)

THE INDUSTRIAL DISPUTES (BANKING COMPANIES)  
DECISION AMENDMENT ACT, 1958

No. 38 OF 1958

[6th October, 1958]

An Act further to amend the Industrial Disputes (Banking Companies) Decision Act, 1955.

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

Short title.

1. This Act may be called the Industrial Disputes (Banking Companies) Decision Amendment Act, 1958.

Amendment of section 3.

2. In the Industrial Disputes (Banking Companies) Decision Act, 1955, in section 3, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Notwithstanding anything contained in the foregoing provisions of this section, the Central Government may, from time to time by notification in the Official Gazette, make in lieu of the adjustment of the dearness allowance recommended in clause 1(e) of Chapter XI of the Report of the Bank Award Commission, such adjustment thereof as it thinks fit for any period subsequent to the 31st December, 1957, with reference to the rise or fall, as compared to 144 (1944 = 100), of the average all-India cost of living index for any period immediately preceding that period; and upon the issue of such notification the adjustment of dearness allowance so made for any period shall be deemed to have been recommended in clause 1(e) of the Report of that Commission:

Provided that any adjustment so made shall, so far as may be, bear to the rise or fall of the cost of living index the same ratio as is indicated between the adjustment of dearness allowance and the rise or fall of the cost of living index in the formulæ recommended in that clause.”

2 + sch I (w- et. 26.12.60)

THE SEA CUSTOMS (AMENDMENT) ACT, 1958

No. 39 OF 1958

[6th October, 1958]

An Act further to amend the Sea Customs Act, 1878.

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

1. This Act may be called the Sea Customs (Amendment) Act, 1958.

8 of 1878.

2. In the Sea Customs Act, 1878, after section 195A the following section shall be inserted, namely:—

Insertion of new section 195B.

Power to allow import or export on execution of bonds in certain cases.

“195B. (1) Where this Act or any other law requires anything to be done before a person can import or export any goods or currency or clear any goods or currency from the control of officers of Customs and the Customs-collector is satisfied that having regard to the circumstances of the case, such thing cannot be done before such import, export or clearance without detriment to that person, the Customs-collector may, notwithstanding anything contained in this Act or such other law, grant leave for such import, export or clearance on the person executing a bond in such amount, with such surety or security and subject to such conditions as the Customs-collector approves, for the doing of that thing within such time after the import, export or clearance as may be specified in the bond.

(2) If the thing is done within the time specified in the bond, the Customs-collector shall cancel the bond as discharged in full and shall, on demand, deliver it, so cancelled, to the person who has executed or who is entitled to receive it; and in such a case that person shall not be liable to any penalty provided in this Act or, as the case may be, in such other law for the contravention of the provisions thereof relating to the doing of that thing.

(3) If the thing is not done within the time specified in the bond, the Customs-collector shall be entitled to proceed upon the bond in accordance with law; and in such a case the person concerned shall also be liable to the penalty provided in this Act or, as the case may be, in such other law for such contravention as aforesaid.”

## THE APPROPRIATION (No. 4) ACT, 1958

No. 40 OF 1958

[6th October, 1958]

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 1958-59.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

**Short title.** 1. This Act may be called the Appropriation (No. 4) Act, 1958.

**Issue of Rs. 7,42,93,000 out of the Consolidated Fund of India for the year 1958-59.** 2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of seven crores, forty-two lakhs and ninety-three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1958-59, 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 Consolidated Fund	Total
		Rs.	Rs.	Rs.
3	Salt . . . . .	4,000	..	4,000
9	Defence Services—Effective—Army . . . . .	..	4,000	4,000
79	Expenditure on Displaced persons and Minorities . . . . .	..	1,000	1,000
95	Supplies . . . . .	..	62,000	62,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
108	Defence Capital Outlay . . . . .	..	14,000	14,000
117	Loans and Advances by the Central Government . . . . .	..	2,00,00,000	2,00,00,000
128	Capital Outlay of the Ministry of Steel, Mines and Fuel . . . . .	4,90,00,000	..	4,90,00,000
130	Capital Outlay on Roads . . . . .	52,08,000	..	52,08,000
	TOTAL	5,42,12,000	2,00,81,000	7,42,93,000

Not Corrected: See India Code Vol. VI B - Part XVII

THE SUPREME COURT JUDGES (CONDITIONS OF SERVICE) ACT, 1958

ARRANGEMENT OF SECTIONS

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PRELIMINARY

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1. Short title.
2. Definitions.

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3. Kinds of leave admissible to a Judge.
4. Leave account showing the amount of leave due.
5. Aggregate amount of leave which may be granted
6. Grant of leave not due.
7. Special disability leave.
8. Extraordinary leave.
9. Leave allowances.
10. Combining leave with vacation.
11. Consequences of overstaying leave or vacation.
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CHAPTER III

PENSIONS

13. Pension payable to Judges.
14. Special provisions for pension in respect of Judges who are members of service.
15. Power of President to add to the service for pension.
16. Extraordinary pension.
17. Pension payable to a Judge who was in receipt of pension at the time of appointment as such.



**SECTIONS**

18. Conversion of sterling pension into rupees.
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**MISCELLANEOUS**

22. Travelling allowance to a Judge.
23. Facilities for rent-free houses and other conditions of service.
24. Power to make rules.
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**THE SCHEDULE**

THE SUPREME COURT JUDGES (CONDITIONS OF SERVICE) ACT, 1958

No. 41 OF 1958

[17th October, 1958]

An Act to regulate certain conditions of service of the Judges of the Supreme Court.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title. 1. This Act may be called the Supreme Court Judges (Conditions of Service) Act, 1958.

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

(a) "acting Chief Justice" means a Judge appointed under article 126 of the Constitution to perform the duties of the Chief Justice of India;

(b) "actual service" includes—

(i) time spent by a Judge on duty as a Judge, or in the performance of such other functions as he may, at the request of the President, undertake to discharge; and

(ii) vacations;

(c) "Chief Justice" means the Chief Justice of India, but does not include an acting Chief Justice;

(d) "High Court" means the High Court for a State;

(e) "Judge" means a Judge of the Supreme Court and includes the Chief Justice and an acting Chief Justice;

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

(g) "service as a Judge in India" means service rendered either in the Federal Court or in the Supreme Court or in any such Court and in one or more of the High Courts, and "Judge in India" and "service for pension as a Judge in India" shall be construed accordingly;

(h) "service for pension" includes—

(i) actual service;

(ii) time spent by a Judge of a High Court in attending the sittings of the Supreme Court as an *ad hoc* Judge under article 127 of the Constitution, if he is subsequently appointed as a Judge;

(iii) forty-five days or the amount actually taken whichever is less, of each period of leave on full allowances;

(i) "vacation" means such period or periods during a year as may be fixed as vacation by or under the rules of the Supreme Court made with the prior approval of the President.

## CHAPTER II

### LEAVE

3. (1) Subject to the provisions of this Act, leave granted to a Judge may be at his option either—

(a) leave on full allowances, or

(b) leave on half allowances; or

(c) leave partly on full allowances and partly on half allowances.

Kinds of  
leave  
admissible to  
a Judge.

(2) For the purposes of this Chapter, any period of leave on full allowances shall be reckoned as double that period of leave on half allowances.

4. (1) A leave account shall be kept for each Judge showing therein the amount of leave due to him in terms of leave on half allowances.

Leave  
account  
showing the  
amount of  
leave due.

(2) In the leave account of a Judge—

(a) there shall be credited to him—

(i) one-fourth of the time spent by him on actual service; and

(ii) where the Judge, by reason of his having been detained for the performance of duties not connected with the Supreme Court, cannot enjoy any vacation which he would otherwise have been entitled to enjoy had he not been so detained, as compensation for the vacation not enjoyed, a period equal to double the period by which the vacation enjoyed by him in any year falls short of one month; and

(b) there shall be debited to him all leave with allowances taken by him.

(3) This section shall be deemed to have come into force on the 1st day of May, 1958.

Aggregate amount of leave which may be granted.

5. (1) The aggregate amount of leave which may be granted to a Judge during the whole period of his service as such shall not exceed in terms of leave on half allowances three years together with the aggregate of the periods, if any, credited to his leave account under sub-section (2) (a) (ii) of section 4 as compensation for vacation not enjoyed.

(2) The aggregate amount of leave on full allowances which may be granted to a Judge during the whole period of his service as such shall not exceed one-twenty-fourth of the period spent by him on actual service together with one-half of the aggregate periods, if any, credited to his leave account under sub-section (2) (a) (ii) of section 4 as compensation for vacation not enjoyed.

(3) The maximum period of leave which may be granted at one time shall be, in the case of leave on full allowances, five months and in the case of leave with allowances of any kind, sixteen months.

Grant of leave not due.

6. Subject to the maximum limit specified in sub-section (1) of section 5, leave on half allowances may be granted to a Judge in excess of the amount at his credit—

(i) on medical certificate; or

(ii) otherwise than on medical certificate, for a period not exceeding six months, or for two or more periods not exceeding in the aggregate six months, during the whole period of his service as a Judge:

Provided that no such leave shall be granted if the Judge is not expected to return to duty at the end of such leave and earn the leave granted.

Special disability leave.

7. Special disability leave may be granted to a Judge under such circumstances, on such allowances and for such periods as may be prescribed.

Extraordinary leave.

8. Extraordinary leave may be granted to a Judge for a period not exceeding six months, or for two or more periods not exceeding in the aggregate six months, during the whole period of his service as a Judge in excess of any leave permissible under the foregoing provisions of this Chapter, but no salary or allowances shall be payable in respect of such leave.

9. (1) The monthly rate of leave allowances payable to a Judge while on leave on full allowances shall be for the first forty-five days of such leave a rate equal to the monthly rate of the salary and thereafter two thousand two hundred and twenty rupees. Leave allowances.

(2) The monthly rate of leave allowances payable to a Judge while on leave on half allowances shall be one thousand one hundred and ten rupees.

10. A Judge may be permitted to combine vacation on full salary with leave, if— Combining leave with vacation.

(a) where the vacation consists of one continuous period, the leave is taken either at the commencement or at the end of the vacation but not at both;

(b) where the vacation is divided into two periods, the leave is taken for the interval, or part of the interval, between the two periods of that vacation, or for the interval, or part of the interval, between the second period of that vacation and the commencement of the next ensuing vacation:

Provided that no such permission to combine vacation with leave shall be granted, if it becomes necessary to appoint an acting Chief Justice during the period of vacation or if the Judge is not expected to return to duty at the end of such leave.

11. (1) If a Judge overstays his leave or any vacation, whether combined with leave or not, he shall receive no salary in respect of the period of his absence in excess of the leave granted to him or beyond the end of the vacation, as the case may be: Consequences of over staying leave or vacation.

Provided that, if such absence is due to circumstances beyond his control, the period thereof may be treated as leave and may be debited to his leave account.

(2) Nothing in this Act shall be construed as requiring a Judge to rejoin on the expiration of the period of leave when that period expires immediately before the commencement of a vacation, nor as authorising any acting Chief Justice to continue to hold the acting appointment during the vacation.

12. The authority competent to grant or refuse leave to a Judge or to revoke or curtail the leave already granted to a Judge shall be the President who shall exercise the power after consultation with the Chief Justice. Authority competent to grant leave.

## CHAPTER III

## PENSIONS

Pension payable to Judges.

13. Subject to the provisions of this Act, a pension shall be payable in accordance with the provisions of Part I of the Schedule to a Judge of the Supreme Court on his retirement if, but only if,—

(a) he has completed not less than seven years of service for pension as a Judge in India; or

(b) he has attained the age of sixty-five years; or

(c) his retirement is medically certified to be necessitated by ill-health.

*Explanation.*—In this section, “Judge” means a Judge who is not a member of the Indian Civil Service or has not held any other pensionable civil post under the Union or a State and includes a person who was in service as a Judge on the 20th May, 1954, and also includes a Judge who being a member of the Indian Civil Service or having held any other pensionable civil post under the Union or a State has elected to receive the pension payable under Part I of the Schedule.

Special provisions for pension in respect of Judges who are members of service.

14. Every Judge—

(a) who is a member of the Indian Civil Service shall, on his retirement, be paid a pension in accordance with the provisions of Part II of the Schedule;

(b) who is not a member of the Indian Civil Service but has held any other pensionable civil post under the Union or a State shall, on his retirement, be paid a pension in accordance with the provisions of Part III of the Schedule:

Provided that every such Judge shall elect to receive the pension payable to him either under Part I of the Schedule or, as the case may be, Part II or Part III of the Schedule, and the pension payable to him shall be calculated accordingly.

Power of President to add to the service for pension.

15. The President may, for special reasons, direct that any period not exceeding three months shall be added to the service for pension of a Judge, and any such period so added shall count for pension purposes—

(a) in the case of a Judge who has served in the Supreme Court as Chief Justice, as service as Chief Justice; and

(b) in the case of any other Judge, as service as any other Judge.

16. Extraordinary pensions and gratuities may be granted to a Judge under such circumstances and on such scales as may be prescribed.

Extraordinary pension.

17. If, at the time of his appointment to the Supreme Court, a Judge is in receipt of a pension in respect of any previous service either as a Judge of a High Court or in any other pensionable civil post under the Union or a State, the pension payable to him under this Act shall be an additional pension for service in the Supreme Court equal to the difference between his original pension and the pension to which he would have been entitled under this Act, if his service in the Supreme Court had been rendered in continuation of the previous service for which his original pension was granted.

Pension payable to a Judge who was in receipt of pension at the time of appointment as such.

18. Pensions expressed in sterling only shall, if paid in India, be converted into rupees at such rate of exchange as the Central Government may, from time to time, specify in this behalf.

Conversion of sterling pension into rupees.

19. The Civil Pensions (Commutation) Rules for the time being in force shall, with necessary modifications, apply to Judges.

Commutation of pension.

20. Every Judge shall be entitled to subscribe to the General Provident Fund (Central Services):

Provident fund.

Provided that a Judge who is a member of the Indian Civil Service or has held any other pensionable civil post under the Union or a State shall continue to subscribe to the provident fund to which he was subscribing before his appointment as a Judge:

Provided further that a Judge who was appointed before the commencement of this Act may continue to subscribe to the provident fund to which he was subscribing immediately before such commencement.

21. Save as may be otherwise expressly provided in the relevant rules relating to the grant of extraordinary pensions and gratuities, the authority competent to grant pension to a Judge under the provisions of this Act shall be the President.

Authority competent to grant pension.

#### CHAPTER IV

#### MISCELLANEOUS

22. A Judge shall receive such reasonable allowance to reimburse him for expenses incurred in travelling on duty within the territory of India and shall be afforded such reasonable facilities in connection with travelling as may, from time to time, be prescribed.

Travelling allowance to a Judge.

23. (1) Every Judge shall be entitled without payment of rent to the use of an official residence in accordance with such rules as may, from time to time, be made in this behalf.

Facilities for rent-free houses and other conditions of service.

(2) Every Judge and the members of his family shall be entitled to such facilities for medical treatment and for accommodation in hospitals as may, from time to time, be prescribed.

(3) The conditions of service of a Judge for which no express provision has been made in this Act shall be such as may be determined by rules made under this Act.

(4) This section shall be deemed to have come into force on the 26th day of January, 1950, and any rule made under this section may be made so as to be retrospective to any date not earlier than the commencement of this section.

Power to  
make rules.

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

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

(a) leave of absence of a Judge, including special disability leave;

(b) pension payable to a Judge, including extraordinary pensions and gratuities;

(c) travelling allowances to a Judge;

(d) use of official residence by a Judge;

(e) facilities for medical treatment and other conditions of service of a Judge;

(f) any other matter which has to be, or may be, prescribed.

(3) All rules made under this section shall, as soon as possible after they are made, be laid for not less than thirty days before each House of Parliament and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

Savings.

25. Nothing contained in this Act shall have effect so as to give to a Judge who is serving as such at the commencement of this Act less favourable terms in respect of his privileges and allowances or his rights in respect of leave of absence (including leave allowances) or pension than those to which he would have been entitled, if this Act had not been passed.



THE SCHEDULE

(See sections 13 and 14)

PENSIONS OF JUDGES

PART I

1. The provisions of this Part apply to a Judge who is not a member of the Indian Civil Service or has not held any other pensionable civil post under the Union or a State and also apply to a person who was in service as a Judge on the 20th May, 1954, and to a Judge who, being a member of the Indian Civil Service or having held any other pensionable civil post under the Union or a State, has elected to receive the pension payable under this Part.

2. Subject to the provisions of this Part, the pension payable to a Chief Justice to whom this Part applies and who has completed not less than seven years of service for pension as a Judge in India shall be an amount equal to the sum of the following amounts, that is to say,—

(a) an amount equal to the pension which would have been payable to him in accordance with the scale and provisions in Part I of the First Schedule to the High Court Judges (Conditions of Service) Act, 1954, if his service as a Judge had been rendered as the Chief Justice of a High Court;

(b) an additional amount of Rs. 470 per annum for each completed year of service as the Chief Justice of the Supreme Court until he has become entitled to a pension of Rs. 20,000 per annum, and thereafter an additional amount of Rs. 1,200 for each completed year of such service:

Provided that the aggregate amount of his pension shall in no case exceed Rs. 26,000 per annum.

3 The pension payable to any other Judge to whom this Part applies and who has completed not less than seven years of service for pension as a Judge in India shall be an amount equal to the pension which would have been payable to him in accordance with the scale and provisions in Part I of the First Schedule to the High Court Judges (Conditions of Service) Act, 1954, if his service as a Judge had been rendered as the Chief Justice of a High Court.

4. If a Judge of the Supreme Court who has served as an acting Chief Justice thereof is subsequently appointed Chief Justice, his service as acting Chief Justice shall, for the purposes of paragraph 2 of this Part, be treated as service as Chief Justice.

**Not Corrected: See India Code**

200 *Supreme Court Judges (Conditions of Service)* [ACT 41 OF 1958]

5. Where a Judge to whom this Part applies retires without being eligible for a pension under any other provision of this Part, then, notwithstanding anything contained in the foregoing provisions, a pension of Rs. 7,500 per annum shall be payable to such a Judge:

Provided that nothing in this paragraph shall apply to a Judge who at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Union or a State.

PART II

1. The provisions of this Part apply to a Judge who is a member of the Indian Civil Service and who has not elected to receive the pension payable under Part I.

2. The pension payable to such a Judge shall be—

(a) the pension to which he is entitled under the ordinary rules of the Indian Civil Service if he had not been appointed a Judge, his service as a Judge in India being treated as service therein, and

(b) an additional pension of Rs. 1,400 per annum for each completed year of service for pension in the Supreme Court.

Provided that the aggregate amount of his pension shall in no case exceed Rs. 20,000 per annum.

PART III

1. The provisions of this Part apply to a Judge who has held any pensionable civil post under the Union or a State (but is not a member of the Indian Civil Service) and who has not elected to receive the pension payable under Part I.

2. The pension payable to such a Judge shall be—

(a) the pension to which he is entitled under the ordinary rules of his service if he had not been appointed a Judge, his service as a Judge in India being treated as service therein for the purpose of calculating that pension; and

(b) a special additional pension of Rs. 500 per annum in respect of each completed year of service for pension as a Judge in India but in no case such additional pension together with the additional or special pension, if any, to which he is entitled under the ordinary rules of his service shall exceed Rs. 2,500 per annum.

Not Corrected: See India Code

Vol. V B - Part VI

THE INTERNATIONAL FINANCE CORPORATION  
(STATUS, IMMUNITIES AND PRIVILEGES)  
ACT, 1958

No. 42 OF 1958

[17th October, 1958]

An Act to implement the international agreement for the establishment and operation of the International Finance Corporation in so far as it relates to the status, immunities and privileges of that Corporation, and for matters connected therewith.

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

1. (1) This Act may be called the International Finance Corporation (Status, Immunities and Privileges) Act, 1958. Short title and extent.

(2) It extends to the whole of India.

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

Definitions.

(a) "Agreement" means the Agreement for the establishment and operation of the international body known as the International Finance Corporation;

(b) "Corporation" means the International Finance Corporation established under the Agreement.

3. (1) Notwithstanding anything to the contrary contained in any other law, the provisions of the Agreement set out in the Schedule shall have the force of law in India: Conferment of status and certain immunities and privileges on the Corporation and conferment of certain immunities and privileges on its officers and employees.

Provided that nothing in Section 9 of Article VI of the Agreement shall be construed as—

(a) entitling the Corporation to import into India goods free of any duty of customs without any restriction on their subsequent sale therein; or

(b) conferring on the Corporation any exemption from duties or taxes which form part of the price of goods sold; or

(c) conferring on the Corporation any exemption from duties or taxes which are in fact no more than charges for services rendered.

(2) The Central Government may, from time to time, by notification in the Official Gazette, amend the Schedule in conformity with any amendments, duly made and adopted, of the provisions of the Agreement set out therein:

Provided that any notification issued under this sub-section shall be laid for not less than thirty days before each House of Parliament as soon as may be after it is issued and shall be subject to such modifications as Parliament may make during the session in which it is so laid or the session immediately following.

Power to  
make rules.

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

(2) All rules made under this Act shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

THE SCHEDULE

[See section 3]

PROVISIONS OF THE AGREEMENT WHICH SHALL HAVE FORCE OF LAW

ARTICLE III

SECTION 1. *Financing Operations*

The Corporation may make investments of its funds in productive private enterprises in the territories of its members. The existence of a government or other public interest in such an enterprise shall not necessarily preclude the Corporation from making an investment therein.

\* \* \* \* \*

SECTION 5. *Applicability of Certain Foreign Exchange Restrictions*

Funds received by or payable to the Corporation in respect of an investment of the Corporation made in any member's territories pursuant to Section 1 of this Article shall not be free, solely by reason of any provision of this Agreement, from generally applicable foreign exchange restrictions, regulations and controls in force in the territories of that member.

\* \* \* \* \*

ARTICLE VI

STATUS, IMMUNITIES AND PRIVILEGES

SECTION 1. *Purposes of Article*

To enable the Corporation to fulfil the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Corporation in the territories of each member.

SECTION 2. *Status of the Corporation*

The Corporation shall possess full juridical personality and, in particular, the capacity;

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property;
- (iii) to institute legal proceedings.

SECTION 3. *Position of the Corporation with regard to Judicial Process*

Actions may be brought against the Corporation only in a court of competent jurisdiction in the territories of a member in which the Corporation has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or driving claims from members. The property and assets of the Corporation shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Corporation.

SECTION 4. *Immunity of Assets from Seizure*

Property and assets of the Corporation, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

SECTION 5. *Immunity of Archives*

The archives of the Corporation shall be inviolable.

SECTION 6. *Freedom of Assets from Restrictions*

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of Article III, Section 5, and the other provisions of this Agreement, all property and assets of the Corporation shall be free from restrictions, regulations, controls and moratoria of any nature.

**SECTION 7. *Privilege for Communications***

The official communications of the Corporation shall be accorded by each member the same treatment that it accords to the official communications of other members.

**SECTION 8. *Immunities and Privileges of Officers and Employees***

All Governors, Directors, Alternates, officers and employees of the Corporation:

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity;
- (ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members;
- (iii) shall be granted the same treatment in respect of traveling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

**SECTION 9. *Immunities from Taxation***

(a) The Corporation, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Corporation shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Corporation to Directors, Alternates, officials or employees of the Corporation who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Corporation (including any dividend or interest thereon) by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is issued by the Corporation; or
- (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Corporation.

(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Corporation (including any dividend or interest thereon) by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is guaranteed by the Corporation; or
- (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Corporation.

\* \* \* \* \*

SECTION 11. *Waiver*

The Corporation in its discretion may waive any of the privileges and immunities conferred under this Article to such extent and upon such conditions as it may determine.

## THE TRADE AND MERCHANDISE MARKS ACT, 1958

### ARRANGEMENT OF SECTIONS

#### CHAPTER I

##### PRELIMINARY

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## THE SCHEDULE

THE TRADE AND MERCHANDISE MARKS ACT, 1958

No. 43 OF 1958

[17th October, 1958]

An Act to provide for the registration and better protection of trade marks and for the prevention of the use of fraudulent marks on merchandise.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Trade and Merchandise Marks Act, 1958. Short title, extent and commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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

Definitions and interpretation.

(a) "assignment" means an assignment in writing by act of the parties concerned;

(b) "associated trade marks" means trade marks deemed to be, or required to be, registered as associated trade marks under this Act;

(c) "certification trade mark" means a mark adapted in relation to any goods to distinguish, in the course of trade, goods certified by any person in respect of origin, material, mode of manufacture, quality, accuracy or other characteristic, from goods not so certified and registrable as such under the provisions of Chapter VIII in respect of those goods in the name, as proprietor of certification trade mark, of that person;

(d) "deceptively similar":—A mark shall be deemed to be deceptively similar to another mark if it so nearly resembles that other mark as to be likely to deceive or cause confusion;

(e) "District Court" has the meaning assigned to it in the Code of Civil Procedure, 1908;

5 of 1908.

(f) "false trade description" means—

(i) a trade description which is untrue or misleading in a material respect as regards the goods to which it is applied; or

(ii) any alteration of a trade description as regards the goods to which it is applied, whether by way of addition, effacement or otherwise, where that alteration makes the description untrue or misleading in a material respect; or

(iii) any trade description which denotes or implies that there are contained, as regards the goods to which it is applied, more yards or metres than there are contained therein standard yards or standard metres; or

(iv) any marks or arrangement or combination thereof applied to goods in such manner as to be likely to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose merchandise or manufacture they really are; or

(v) any false name or initials of a person applied to goods in such manner as if such name or initials were a trade description in any case where the name or initials—

(a) is or are not a trade mark or part of a trade mark; and

(b) is or are identical with or deceptively similar to the name or initials of a person carrying on business in connection with goods of the same description and who has not authorised the use of such name or initials; and

(c) is or are either the name or initials of a fictitious person or of some person not *bona fide* carrying on business in connection with such goods;

and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act;

(g) "goods" means anything which is the subject of trade or manufacture;

(h) "High Court" means the High Court having jurisdiction under section 3;

(i) "limitations" (with its grammatical variations) means any limitations of the exclusive right to the use of a trade mark given by the registration of a person as proprietor thereof, including limitations of that right as to mode of use, as to use in relation to goods to be sold or otherwise traded in within India, or as to use in relation to goods to be exported to any market outside India;

(j) "mark" includes a device, brand, heading, label, ticket, name, signature, word, letter or numeral or any combination thereof;

(k) "name" includes any abbreviation of a name;

(l) "package" includes any case, box, container, covering, folder, receptacle, vessel, casket, bottle, wrapper, label, band, ticket, reel, frame, capsule, cap, lid, stopper and cork;

(m) "permitted use", in relation to a registered trade mark, means the use of a trade mark—

(i) by a registered user of the trade mark in relation to goods—

(a) with which he is connected in the course of trade; and

(b) in respect of which the trade mark remains registered for the time being; and

(c) for which he is registered as registered user; and

(ii) which complies with any conditions or restrictions to which the registration of the trade mark is subject;

(n) "prescribed" means, in relation to proceedings before a High Court, prescribed by rules made by the High Court, and in other cases, prescribed by rules made under this Act;

(o) "register" means the Register of Trade Marks referred to in section 6;

(p) "registered" (with its grammatical variations) means registered under this Act;

(q) "registered proprietor", in relation to a trade mark means the person for the time being entered in the register as proprietor of the trade mark;

(r) "registered trade mark" means a trade mark which is actually on the register;

(s) "registered user" means a person who is for the time being registered as such under section 49;

(t) "Registrar" means the Registrar of Trade Marks referred to in section 4;

(u) "trade description" means any description, statement or other indication, direct or indirect,—

(i) as to the number, quantity, measure, gauge or weight of any goods; or—

(ii) as to the standard of quality of any goods, according to a classification commonly used or recognised in the trade; or

(iii) as to fitness for the purpose, strength, performance or behaviour of any goods, being "drug" as defined in the Drugs Act, 1940, or "food" as defined in the Prevention of Food Adulteration Act, 1954; or

23 of 1940.  
37 of 1954.

(iv) as to the place or country in which or the time at which any goods were made or produced; or

(v) as to the name and address or other indication of the identity of the manufacturer or of the person for whom the goods are manufactured; or

(vi) as to the mode of manufacture or producing any goods; or

(vii) as to the material of which any goods are composed; or

(viii) as to any goods being the subject of an existing patent, privilege or copyright;

and includes—

(a) any description as to the use of any mark which according to the custom of the trade is commonly taken to be an indication of any of the above matters;

(b) the description as to any imported goods contained in a bill of entry or shipping bill;

(c) any other description which is likely to be misunderstood or mistaken for all or any of the said matters;



(v) "trade mark" means—

(i) in relation to Chapter X (other than section 81), a registered trade mark or a mark used in relation to goods for the purpose of indicating or so as to indicate a connection in the course of trade between the goods and some person having the right as proprietor to use the mark; and

(ii) in relation to the other provisions of this Act, a mark used or proposed to be used in relation to goods for the purpose of indicating or so as to indicate a connection in the course of trade between the goods and some person having the right, either as proprietor or as registered user, to use the mark whether with or without any indication of the identity of that person, and includes a certification trade mark registered as such under the provisions of Chapter VIII;

(w) "transmission" means transmission by operation of law, devolution on the personal representative of a deceased person and any other mode of transfer, not being assignment;

(x) "tribunal" means the Registrar or, as the case may be, the High Court, before which the proceeding concerned is pending.

(2) In this Act, unless the context otherwise requires, any reference—

(a) to the use of a mark shall be construed as a reference to the use of a printed or other visual representation of the mark;

(b) to the use of a mark in relation to goods shall be construed as a reference to the use of the mark upon, or in any physical or in any other relation whatsoever, to such goods;

(c) to a registered trade mark shall be construed as including a reference to a trade mark registered in Part A of the register or Part B of the register, as the case may be;

(d) to the Registrar shall be construed as including a reference to any officer when discharging the functions of the Registrar in pursuance of sub-section (2) of section 4;

(e) to the Trade Marks Registry shall be construed as including a reference to any office of the Trade Marks Registry.

High Court  
having  
jurisdiction.

3. The High Court having jurisdiction under this Act shall be the High Court within the limits of whose appellate jurisdiction the office of the Trade Marks Registry referred to in each of the following cases is situate, namely:—

(a) in relation to a trade mark on the Register of Trade Marks at the commencement of this Act, the office of the Trade Marks Registry within whose territorial limits the principal place of business in India of the proprietor of the trade mark as entered in the register at such commencement is situate;

(b) in relation to a trade mark for which an application for registration is pending at or is made on or after the commencement of this Act, the office of the Trade Marks Registry within whose territorial limits the principal place of business in India of the applicant as disclosed in his application is situate;

(c) in relation to a trade mark registered in the names of joint proprietors before the commencement of this Act, the office of the Trade Marks Registry within whose territorial limits the principal place of business in India of the proprietor whose name is entered first in the register at such commencement as having such place of business is situate;

(d) in relation to a trade mark for which an application for registration in the names of joint proprietors is pending at or is made on or after the commencement of this Act, the office of the Trade Marks Registry within whose territorial limits the principal place of business in India of the proprietor whose name is first mentioned in the said application as having such place of business is situate;

(e) where the registered proprietor or the applicant for registration as aforesaid has no place of business in India or where none of the jointly registered proprietors or none of the joint applicants as aforesaid has any place of business in India, the office of the Trade Marks Registry within whose territorial limits—

(i) in relation to a trade mark on the Register of Trade Marks at the commencement of this Act, the place mentioned in the address for service in India as entered in the register at such commencement;

(ii) in relation to a trade mark for which an application for registration is pending at or is made on or after such commencement, the place mentioned in the address for service in India as specified in the application;  
is situate.

CHAPTER II

THE REGISTER AND CONDITIONS FOR REGISTRATION

2 of 1911.

4. (1) The Central Government may, by notification in the Official Gazette, appoint a person to be known as the Controller-General of Patents, Designs and Trade Marks, who shall be the Registrar for the purposes of this Act and the Controller of Patents and Designs for the purposes of the Indian Patents and Designs Act, 1911.

Registra.  
of Trade  
Marks.

(2) The Central Government may appoint such other officers with such designations as it thinks fit for the purpose of discharging, under the superintendence and direction of the Registrar, such functions of the Registrar under this Act as he may from time to time authorise them to discharge.

5. (1) For the purpose of this Act there shall be established a Registry which shall be known as the Trade Marks Registry.

Trade  
Marks  
Registry and  
offices  
thereof.

(2) The head office of the Trade Marks Registry shall be at such place as the Central Government may specify, and for the purpose of facilitating the registration of trade marks, there may be established at such places as the Central Government may think fit branch offices of the Trade Marks Registry.

(3) The Central Government may, by notification in the Official Gazette, define the territorial limits within which an office of the Trade Marks Registry may exercise its functions.

(4) There shall be a seal of the Trade Marks Registry.

6. (1) For the purposes of this Act, a record called the Register of Trade Marks shall be kept at the head office of the Trade Marks Registry, wherein shall be entered all registered trade marks with the names, addresses and descriptions of the proprietors, notifications of assignments and transmissions, the names, addresses and descriptions of registered users, disclaimers, conditions, limitations and such other matters relating to registered trade marks as may be prescribed.

The Regis-  
ter of Trade  
Marks.

(2) No notice of any trust, express or implied or constructive, shall be entered in the register and no such notice shall be receivable by the Registrar.

(3) Subject to the superintendence and direction of the Central Government, the register shall be kept under the control and management of the Registrar.

(4) There shall be kept at each branch office of the Trade Marks Registry a copy of the register and such of the other documents mentioned in section 125 as the Central Government may, by notification in the Official Gazette, direct.

Part A and  
Part B of  
the register.

7. (1) The register referred to in section 6 shall be divided into two Parts called respectively Part A and Part B.

(2) The Register of Trade Marks existing at the commencement of this Act shall be incorporated with and form part of Part A of the register, and this Part shall comprise all trade marks entered in the Register of Trade Marks existing at the commencement of this Act and all trade marks which after such commencement may be entered in Part A of the register.

(3) Part B of the register shall comprise all trade marks which after the commencement of this Act may be entered in Part B of the register.

Registrations  
to be in res-  
pect of parti-  
cular goods.

8. (1) A trade mark may be registered in respect of any or all of the goods comprised in a prescribed class of goods.

(2) Any question arising as to the class within which any goods fall shall be determined by the Registrar whose decision in the matter shall be final.

Requisites  
for registra-  
tion in Parts  
A and B of  
the register.

9. (1) A trade mark shall not be registered in Part A of the register unless it contains or consists of at least one of the following essential particulars, namely:—

(a) the name of a company, individual or firm represented in a special or particular manner;

(b) the signature of the applicant for registration or some predecessor in his business;

(c) one or more invented words;

(d) one or more words having no direct reference to the character or quality of the goods and not being, according to its ordinary signification, a geographical name or a surname or a personal name or any common abbreviation thereof or the name of a sect, caste or tribe in India;

(e) any other distinctive mark.

(2) A name, signature or word, other than such as fall within the descriptions in clauses (a), (b), (c) and (d) of sub-section (1) shall not be registrable in Part A of the register except upon evidence of its distinctiveness.

(3) For the purposes of this Act, the expression "distinctive" in relation to the goods in respect of which a trade mark is proposed to be registered, means adapted to distinguish goods with which the proprietor of the trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists either generally or, where the trade mark is proposed to be registered subject to limitations, in relation to use within the extent of the registration.

(4) A trade mark shall not be registered in Part B of the register unless the trade mark in relation to the goods in respect of which it is proposed to be registered is distinctive, or is not distinctive but is capable of distinguishing goods with which the proprietor of a trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists, either generally or, where the trade mark is proposed to be registered subject to limitations, in relation to use within the extent of the registration.

(5) In determining whether a trade mark is distinctive or is capable of distinguishing as aforesaid, the tribunal may have regard to the extent to which—

(a) a trade mark is inherently distinctive or is inherently capable of distinguishing as aforesaid; and

(b) by reason of the use of the trade mark or of any other circumstances, the trade mark is in fact so adapted to distinguish or is in fact capable of distinguishing as aforesaid.

(6) Subject to the other provisions of this section, a trade mark in respect of any goods—

(a) registered in Part A of the register may be registered in Part B of the register; and

(b) registered in Part B of the register may be registered in Part A of the register;

in the name of the same proprietor of the same trade mark or any part or parts thereof.

10. (1) A trade mark may be limited wholly or in part to one or more specified colours, and any such limitation shall be taken into consideration by the tribunal having to decide on the distinctive character of the trade mark. Limitation as to colour.

(2) So far as a trade mark is registered without limitation of colour, it shall be deemed to be registered for all colours.

11. A mark—

(a) the use of which would be likely to deceive or cause confusion; or

Prohibition of registration of certain marks.

(b) the use of which would be contrary to any law for the time being in force; or

(c) which comprises or contains scandalous or obscene matter; or

(d) which comprises or contains any matter likely to hurt the religious susceptibilities of any class or section of the citizens of India; or

(e) which would otherwise be disentitled to protection in a court;

shall not be registered as a trade mark.

Prohibition of registration of identical or deceptively similar trade marks.

12. (1) Save as provided in sub-section (3), no trade mark shall be registered in respect of any goods or description of goods which is identical with or deceptively similar to a trade mark which is already registered in the name of a different proprietor in respect of the same goods or description of goods.

(2) Where separate applications are made by different persons to be registered as proprietors respectively of trade marks which are identical or nearly resemble each other in respect of the same goods or description of goods, the Registrar may defer the acceptance of the application or applications bearing a later date until after the determination of the proceedings in respect of the earlier application, and may dispose of such application or applications in the light of the evidence tendered in relation to earlier application and the oppositions thereto, if any.

(3) In case of honest concurrent use or of other special circumstances which, in the opinion of the Registrar, make it proper so to do, he may permit the registration by more than one proprietor of trade marks which are identical or nearly resemble each other (whether any such trade mark is already registered or not) in respect of the same goods or description of goods, subject to such conditions and limitations, if any, as the Registrar may think fit to impose.

Prohibition of registration of names of chemical elements.

13. (1) No word which is the commonly used and accepted name of any single chemical element or single chemical compound (as distinguished from a mixture) shall be registered as a trade mark in respect of a chemical substance or preparation, and any such registration shall, notwithstanding anything in section 32, be deemed for the purposes of section 56 to be an entry made in the register without sufficient cause or an entry wrongly remaining on the register, as the circumstances may require.

(2) This section shall not apply to a word which is used to denote only a brand or make of the element or compound as made

by the proprietor or a registered user of the trade mark, as distinguished from the element or compound as made by others, and in association with a suitable name or description open to the public use.

14. Where an application is made for the registration of a trade mark which falsely suggests a connection with any living person, or a person whose death took place within twenty years prior to the date of application for registration of the trade mark, the Registrar may, before he proceeds with the application, require the applicant to furnish him with the consent in writing of such living person or, as the case may be, of the legal representative of the deceased person to the connection appearing on the trade mark, and may refuse to proceed with the application unless the applicant furnishes the Registrar with such consent.

Use of names and representations of living persons or persons recently dead.

15. (1) Where the proprietor of a trade mark claims to be entitled to the exclusive use of any part thereof separately, he may apply to register the whole and the part as separate trade marks.

Registration of parts of trade marks and of trade marks as a series.

(2) Each such separate trade mark shall satisfy all the conditions applying to, and have all the incidents of, an independent trade mark.

(3) Where a person claiming to be the proprietor of several trade marks in respect of the same goods or description of goods which, while resembling each other in the material particulars thereof, yet differ in respect of—

(a) statement of the goods in relation to which they are respectively used or proposed to be used; or

(b) statements of number, price, quality or names of places; or

(c) other matter of a non-distinctive character which does not substantially affect the identity of the trade mark; or

(d) colour;

seeks to register those trade marks, they may be registered as a series in one registration.

16. (1) Where a trade mark which is registered, or is the subject of an application for registration, in respect of any goods is identical with another trade mark which is registered, or is the subject of an application for registration, in the name of the same proprietor in respect of the same goods or description of

Registration of trade marks as associated trade marks.

goods or so nearly resembles it as to be likely to deceive or cause confusion if used by a person other than the proprietor, the Registrar may, at any time, require that the trade marks shall be entered on the register as associated trade marks.

(2) Where a trade mark and any part thereof are, in accordance with the provisions of sub-section (1) of section 15, registered as separate trade marks in the name of the same proprietor, they shall be deemed to be, and shall be registered as, associated trade marks.

(3) All trade marks registered in accordance with the provisions of sub-section (3) of section 15 as a series in one registration shall be deemed to be, and shall be registered as, associated trade marks.

(4) On application made in the prescribed manner by the registered proprietor of two or more trade marks registered as associated trade marks, the Registrar may dissolve the association as respects any of them if he is satisfied that there would be no likelihood of deception or confusion being caused if that trade mark were used by any other person in relation to any of the goods in respect of which it is registered, and may amend the register accordingly.

Registration  
of trade  
marks subject  
to disclaimer

17. If a trade mark—

(a) contains any part—

(i) which is not the subject of a separate application by the proprietor for registration as a trade mark; or

(ii) which is not separately registered by the proprietor as a trade mark; or

(b) contains any matter which is common to the trade or is otherwise of a non-distinctive character;

the tribunal, in deciding whether the trade mark shall be entered or shall remain on the register, may require, as a condition of its being on the register, that the proprietor shall either disclaim any right to the exclusive use of such part or of all or any portion of such matter, as the case may be, to the exclusive use of which the tribunal holds him not to be entitled, or make such other disclaimer as the tribunal may consider necessary for the purpose of defining the rights of the proprietor under the registration:

Provided that no disclaimer shall affect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade mark in respect of which the disclaimer is made.



CHAPTER III

PROCEDURE FOR AND DURATION OF REGISTRATION

18. (1) Any person claiming to be the proprietor of a trade mark used or proposed to be used by him, who is desirous of registering it, shall apply in writing to the Registrar in the prescribed manner for the registration of his trade mark either in Part A or in Part B of the register. Application for registration.

(2) An application shall not be made in respect of goods comprised in more than one prescribed class of goods.

(3) Every application under sub-section (1) shall be filed in the office of the Trade Marks Registry within whose territorial limits the principal place of business in India of the applicant or in the case of joint applicants the principal place of business in India of the applicant whose name is first mentioned in the application, as having a place of business in India, is situate:

Provided that where the applicant or any of the joint applicants does not carry on business in India, the application shall be filed in the office of the Trade Marks Registry within whose territorial limits the place mentioned in the address for service in India as disclosed in the application, is situate.

(4) Subject to the provisions of this Act, the Registrar may refuse the application or may accept it absolutely or subject to such amendments, modifications, conditions or limitations, if any, as he may think fit.

(5) In the case of an application for registration of a trade mark (other than a certification trade mark) in Part A of the register, the Registrar may, if the applicant so desires, instead of refusing the application, treat it as an application for registration in Part B of the register and deal with the application accordingly.

(6) In the case of a refusal or conditional acceptance of an application, the Registrar shall record in writing the grounds for such refusal or conditional acceptance and the materials used by him in arriving at his decision.

19. Where, after the acceptance of an application for registration of a trade mark but before its registration, the Registrar is satisfied— Withdrawal of acceptance.

(a) that the application has been accepted in error; or

(b) that in the circumstances of the case the trade mark should not be registered or should be registered subject to conditions or limitations or to conditions additional to or different

from the conditions or limitations subject to which the application has been accepted;

the Registrar may, after hearing the applicant if he so desires, withdraw the acceptance and proceed as if the application had not been accepted.

Advertise-  
ment of  
application.

20. (1) When an application for registration of a trade mark has been accepted, whether absolutely or subject to conditions or limitations, the Registrar shall, as soon as may be after acceptance, cause the application as accepted together with the conditions or limitations, if any, subject to which it has been accepted, to be advertised in the prescribed manner:

Provided that the Registrar may cause the application to be advertised before acceptance if it relates to a trade mark to which sub-section (2) of section 9 applies or in any other case where it appears to him that it is expedient by reason of any exceptional circumstances so to do.

(2) Where—

(a) an application has been advertised before acceptance under sub-section (1); or

(b) after advertisement of an application—

(i) an error in the application has been corrected; or

(ii) the application has been permitted to be amended under section 22;

the Registrar may in his discretion cause the application to be advertised again or, in any case falling under clause (b) may, instead of causing the application to be advertised again, notify in the prescribed manner the correction or amendment made in the application.

Opposition  
to registra-  
tion.

21. (1) Any person may, within three months from the date of the advertisement or re-advertisement of an application for registration or within such further period, not exceeding one month in the aggregate, as the Registrar, on application made to him in the prescribed manner and on payment of the prescribed fee, allows, give notice in writing in the prescribed manner to the Registrar, of opposition to the registration.

(2) The Registrar shall serve a copy of the notice on the applicant for registration and, within two months from the receipt by the applicant of such copy of the notice of opposition, the applicant shall send to the Registrar in the prescribed manner a counter-statement of the grounds on which he relies for his application, and if he does not do so he shall be deemed to have abandoned his application.

(3) If the applicant sends such counter-statement the Registrar shall serve a copy thereof on the person giving notice of opposition.

(4) Any evidence upon which the opponent and the applicant may rely shall be submitted in the prescribed manner and within the prescribed time to the Registrar, and the Registrar shall give an opportunity to them to be heard if they so desire.

(5) The Registrar shall, after hearing the parties, if so required, and considering the evidence, decide whether and subject to what conditions or limitations, if any, the registration is to be permitted, and may take into account a ground of objection whether relied upon by the opponent or not.

(6) Where a person giving notice of opposition or an applicant sending a counter-statement after receipt of a copy of such notice neither resides nor carries on business in India, the Registrar may require him to give security for the costs of proceedings before him, and in default of such security being duly given, may treat the opposition or application, as the case may be, as abandoned.

22. The Registrar may on such terms as he thinks just—

Correction  
and amend-  
ment.

(a) at any time, whether before or after acceptance of an application for registration under section 18, permit the correction of any error in or in connection with the application or permit an amendment of the application; or

(b) permit correction of any error in, or an amendment of, a notice of opposition or a counter-statement under section 21.

23. (1) Subject to the provisions of section 19, when an application for registration of a trade mark in Part A or Part B of the register has been accepted and either—

Registration.

(a) the application has not been opposed and the time for notice of opposition has expired; or

(b) the application has been opposed and the opposition has been decided in favour of the applicant;

the Registrar shall, unless the Central Government otherwise directs, register the said trade mark in Part A or Part B of the register, as the case may be, and the trade mark when registered shall be registered as of the date of the making of the said application and that date shall, subject to the provisions of section 131, be deemed to be the date of registration.

(2) On the registration of a trade mark, the Registrar shall issue to the applicant a certificate in the prescribed form of the registration thereof, sealed with the seal of the Trade Marks Registry.

(3) Where registration of a trade mark is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar may, after giving notice to the applicant in the prescribed manner, treat the application as abandoned unless it is completed within the time specified in that behalf in the notice.

(4) The Registrar may amend the register or a certificate of registration for the purpose of correcting a clerical error or an obvious mistake.

Jointly  
owned trade  
marks.

24. (1) Save as provided in sub-section (2), nothing in this Act shall authorise the registration of two or more persons who use a trade mark independently, or propose so to use it, as joint proprietors thereof.

(2) Where the relations between two or more persons interested in a trade mark are such that no one of them is entitled as between himself and the other or others of them to use it except—

(a) on behalf of both or all of them; or

(b) in relation to an article with which both or all of them are connected in the course of trade;

those persons may be registered as joint proprietors of the trade mark, and this Act shall have effect in relation to any rights to the use of the trade mark vested in those persons as if those rights had been vested in a single person.

Duration,  
renewal and  
restoration  
of registra-  
tion.

25. (1) The registration of a trade mark shall be for a period of seven years, but may be renewed from time to time in accordance with the provisions of this section.

(2) The Registrar shall, on application made by the registered proprietor of a trade mark in the prescribed manner and within the prescribed period and subject to payment of the prescribed fee, renew the registration of the trade mark for a period of seven years from the date of expiration of the original registration or of the last renewal of registration, as the case may be (which date is in this section referred to as the expiration of the last registration).

(3) At the prescribed time before the expiration of the last registration of a trade mark the Registrar shall send notice in the prescribed manner to the registered proprietor of the date of expiration

and the conditions as to payment of fees and otherwise upon which a renewal of registration may be obtained, and, if at the expiration of the time prescribed in that behalf those conditions have not been duly complied with, the Registrar may remove the trade mark from the register.

(4) Where a trade mark has been removed from the register for non-payment of the prescribed fee, the Registrar may, within one year from the expiration of the last registration of the trade mark, on receipt of an application in the prescribed form, if satisfied that it is just so to do, restore the trade mark to the register and renew the registration of the trade mark either generally or subject to such conditions or limitations as he thinks fit to impose, for a period of seven years from the expiration of the last registration.

26. Where a trade mark has been removed from the register for failure to pay the fee for renewal, it shall nevertheless, for the purpose of any application for the registration of another trade mark during one year next after the date of the removal, be deemed to be a trade mark already on the register, unless the tribunal is satisfied either—

Effect of removal from register for failure to pay fee for renewal.

(a) that there has been no *bona fide* trade use of the trade mark which has been removed during the two years immediately preceding its removal; or

(b) that no deception or confusion would be likely to arise from the use of the trade mark which is the subject of the application for registration by reason of any previous use of the trade mark which has been removed.

#### CHAPTER IV

##### EFFECT OF REGISTRATION

27. (1) No person shall be entitled to institute any proceeding to prevent, or to recover damages for, the infringement of an unregistered trade mark.

No action for infringement of unregistered trade mark.

(2) Nothing in this Act shall be deemed to affect rights of action against any person for passing off goods as the goods of another person or the remedies in respect thereof.

28. (1) Subject to the other provisions of this Act, the registration of a trade mark in Part A or Part B of the register shall, if valid, give to the registered proprietor of the trade mark the exclusive right to the use of the trade mark in relation to the goods in respect of which the trade mark is registered and to obtain relief in respect of infringement of the trade mark in the manner provided by this Act.

Rights conferred by registration.

(2) The exclusive right to the use of a trade mark given under sub-section (1) shall be subject to any conditions and limitations to which the registration is subject.

(3) Where two or more persons are registered proprietors of trade marks, which are identical with or nearly resemble each other, the exclusive right to the use of any of those trade marks shall not (except so far as their respective rights are subject to any conditions or limitations entered on the register) be deemed to have been acquired by any one of those persons as against any other of those persons merely by registration of the trade marks but each of those persons has otherwise the same rights as against other persons (not being registered users using by way of permitted use) as he would have if he were the sole registered proprietor.

Infringe-  
ment of  
trade marks.

29. (1) A registered trade mark is infringed by a person who, not being the registered proprietor of the trade mark or a registered user thereof using by way of permitted use, uses in the course of trade a mark which is identical with, or deceptively similar to, the trade mark, in relation to any goods in respect of which the trade mark is registered and in such manner as to render the use of the mark likely to be taken as being use as a trade mark.

(2) In an action for infringement of a trade mark registered in Part B of the register an injunction or other relief shall not be granted to the plaintiff if the defendant establishes to the satisfaction of the court that the use of the mark of which the plaintiff complains is not likely to deceive or cause confusion or to be taken as indicating a connection in the course of trade between the goods in respect of which the trade mark is registered and some person having the right, either as registered proprietor or as registered user, to use the trade mark.

Acts not  
constituting  
infringe-  
ment.

30. (1) Notwithstanding anything contained in this Act, the following acts do not constitute an infringement of the right to the use of a registered trade mark:—

(a) where a trade mark is registered subject to any conditions or limitations, the use of the trade mark in any manner in relation to goods to be sold or otherwise traded in, in any place, or in relation to goods to be exported to any market, or in any other circumstances, to which, having regard to those conditions or limitations, the registration does not extend;

(b) the use by a person of a trade mark in relation to goods connected in the course of trade with the proprietor or a registered user of the trade mark if, as to those goods or a bulk of

which they form part, the registered proprietor or the registered user conforming to the permitted use has applied the trade mark and has not subsequently removed or obliterated it, or has at any time expressly or impliedly consented to the use of the trade mark;

(c) the use of a trade mark by a person in relation to goods adapted to form part of, or to be accessory to, other goods in relation to which the trade mark has been used without infringement of the right given by registration under this Act or might for the time being be so used, if the use of the trade mark is reasonably necessary in order to indicate that the goods are so adapted, and neither the purpose nor the effect of the use of the trade mark is to indicate, otherwise than in accordance with the fact, a connection in the course of trade between any person and the goods;

(d) the use of a registered trade mark, being one of two or more trade marks registered under this Act which are identical or nearly resemble each other, in exercise of the right to the use of that trade mark given by registration under this Act.

(2) Where the goods bearing a registered trade mark are lawfully acquired by a person, the sale of or other dealings in those goods by that person or by a person claiming under or through him is not an infringement of the trade mark by reason only of the trade mark having been assigned by the registered proprietor to some other person after the acquisition of those goods.

31. (1) In all legal proceedings relating to a trade mark registered under this Act (including applications under section 56), the original registration of the trade mark and of all subsequent assignments and transmissions of the trade mark shall be *prima facie* evidence of the validity thereof. Registration to be *prima facie* evidence of validity.

(2) In all legal proceedings as aforesaid a trade mark registered in Part A of the register shall not be held to be invalid on the ground that it was not a registrable trade mark under section 9 except upon evidence of distinctiveness and that such evidence was not submitted to the Registrar before registration, if it is proved that the trade mark had been so used by the registered proprietor or his predecessor in title as to have become distinctive at the date of registration.

Registration to be conclusive as to validity after seven years

32. Subject to the provisions of section 35 and section 46, in all legal proceedings relating to a trade mark registered in Part A of the register (including applications under section 56), the original registration of the trade mark shall, after the expiration of seven years from the date of such registration, be taken to be valid in all respects unless it is proved—

(a) that the original registration was obtained by fraud; or

(b) that the trade mark was registered in contravention of the provisions of section 11 or offends against the provisions of that section on the date of commencement of the proceedings; or

(c) that the trade mark was not, at the commencement of the proceedings, distinctive of the goods of the registered proprietor.

Saving for vested rights.

33. Nothing in this Act shall entitle the proprietor or a registered user of a registered trade mark to interfere with or restrain the use by any person of a trade mark identical with or nearly resembling it in relation to goods in relation to which that person or a predecessor in title of his has continuously used that trade mark from a date prior—

(a) to the use of the first-mentioned trade mark in relation to those goods by the proprietor or a predecessor in title of his; or

(b) to the date of registration of the first-mentioned trade mark in respect of those goods in the name of the proprietor or a predecessor in title of his;

whichever is the earlier, and the Registrar shall not refuse (on such use being proved) to register the second-mentioned trade mark by reason only of the registration of the first-mentioned trade mark.

Saving for use of name, address or description of goods.

34. Nothing in this Act shall entitle the proprietor or a registered user of a registered trade mark to interfere with any *bona fide* use by a person of his own name or that of his place of business, or of the name, or of the name of the place of business, of any of his predecessors in business, or the use by any person of any *bona fide* description of the character or quality of his goods.

Saving for words used as name or description of an article or substance.

35. (1) The registration of a trade mark shall not be deemed to have become invalid by reason only of any use after the date of the registration of any word or words which the trade mark contains or of which it consists as the name or description of an article or substance:



Provided that, if it is proved either—

(a) that there is a well-known and established use of the said word as the name or description of the article or substance by a person or persons carrying on a trade therein, not being use in relation to goods connected in the course of trade with the proprietor or a registered user of the trade mark or (in the case of a certification trade mark) goods certified by the proprietor; or

(b) that the article or substance was formerly manufactured under a patent, that a period of two years or more after the cesser of the patent has elapsed, and that the said word is the only practicable name or description of the article or substance; the provisions of sub-section (2) shall apply.

(2) Where the facts mentioned in clause (a) or clause (b) of the proviso to sub-section (1) are proved with respect to any words, then—

(a) for the purposes of any proceedings under section 56—

(i) if the trade mark consists solely of such words, the registration of the trade mark, so far as regards registration in respect of the article or substance in question or of any goods of the same description, shall be deemed to be an entry wrongly remaining on the register;

(ii) if the trade mark contains such words and other matter, the tribunal in deciding whether the trade mark shall remain on the register, so far as regards registration in respect of the article or substance in question and of any goods of the same description, may, in case of a decision in favour of its remaining on the register, require as a condition thereof that the proprietor shall disclaim any exclusive right to the use in relation to that article or substance and any goods of the same description, of such words:

Provided that no disclaimer shall affect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade mark in respect of which the disclaimer is made;

(b) for the purposes of any other legal proceeding relating to the trade mark,—

(i) if the trade mark consists solely of such words, all rights of the proprietor under this Act or any other law to the use of the trade mark in relation to the article or substance in question or to any goods of the same description; or

(ii) if the trade mark contains such words and other matter, all such rights of the proprietor to the use of such words, in such relation as aforesaid;

shall be deemed to have ceased on the date at which the use mentioned in clause-(a) of the proviso to sub-section (1) first became well-known and established, or at the expiration of the period of two years mentioned in clause (b) of the said proviso.

## CHAPTER V

### ASSIGNMENT AND TRANSMISSION

Power of registered proprietor to assign and give receipts.

36. The person for the time being entered in the register as proprietor of a trade mark shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power to assign the trade mark, and to give effectual receipts for any consideration for such assignment.

Assignability and transmissibility of registered trade marks.

37. Notwithstanding anything in any other law to the contrary, a registered trade mark shall, subject to the provisions of this Chapter, be assignable and transmissible, whether with or without the goodwill of the business concerned and in respect either of all the goods in respect of which the trade mark is registered or of some only of those goods.

Assignability and transmissibility of unregistered trade marks.

38. (1) An unregistered trade mark shall not be assignable or transmissible except along with the goodwill of the business concerned.

(2) Notwithstanding anything contained in sub-section (1), an unregistered trade mark may be assigned or transmitted otherwise than along with the goodwill of the business concerned if—

(a) at the time of assignment or transmission of the unregistered trade mark, it is used in the same business as a registered trade mark; and

(b) the registered trade mark is assigned or transmitted at the same time and to the same person as the unregistered trade mark; and

(c) the unregistered trade mark relates to goods in respect of which the registered trade mark is assigned or transmitted.

Restrictions on assignment or transmission where multiple exclusive rights would be created.

39. (1) Notwithstanding anything in section 37 and section 38, a trade mark shall not be assignable or transmissible in a case in which as a result of the assignment or transmission there would in the circumstances subsist, whether under this Act or any other law, exclusive rights in more than one of the persons concerned to the use, in relation to the same goods or description of goods, of trade

marks nearly resembling each other or of identical trade marks, if, having regard to the similarity of the goods and of the trade marks, the use of the trade marks in exercise of those rights would be likely to deceive or cause confusion:

Provided that an assignment or transmission shall not be deemed to be invalid under this sub-section if the exclusive rights subsisting as a result thereof in the persons concerned respectively are, having regard to limitations imposed thereon, such as not to be exercisable by two or more of those persons in relation to goods to be sold, or otherwise traded in, within India otherwise than for export therefrom, or in relation to goods to be exported to the same market outside India.

(2) The proprietor of a registered trade mark who proposes to assign it may submit to the Registrar in the prescribed manner a statement of case setting out the circumstances and the Registrar may issue to him a certificate stating whether, having regard to the similarity of the goods and of the trade marks referred to in the case, the proposed assignment would or would not be invalid under sub-section (1), and a certificate so issued shall, subject to appeal and unless it is shown that the certificate was obtained by fraud or misrepresentation, be conclusive as to the validity or invalidity under sub-section (1) of the assignment in so far as such validity or invalidity depends upon the facts set out in the case, but, as regards a certificate in favour of validity, only if application for the registration under section 44 of the title of the person becoming entitled is made within six months from the date on which the certificate is issued.

40. Notwithstanding anything in section 37 and section 38, a trade mark shall not be assignable or transmissible in a case in which as a result of the assignment or transmission there would in the circumstances subsist, whether under this Act or any other law, an exclusive right in one of the persons concerned to the use of the trade mark limited to use in relation to goods to be sold, or otherwise traded in, in any place in India and an exclusive right in another of these persons to the use of a trade mark nearly resembling the first-mentioned trade mark or of an identical trade mark in relation to the same goods or description of goods limited to use in relation to goods to be sold, or otherwise traded in, in any other place in India:

Restrictions on assignment or transmission when exclusive rights would be created in different parts of India.

Provided that in any such case, on application in the prescribed manner by the proprietor of a trade mark who proposes to assign it, or by a person who claims that a registered trade mark has been transmitted to him or to a predecessor in title of his since the commencement of this Act, the Registrar, if he is satisfied that in all

the circumstances the use of the trade mark in exercise of the said rights would not be contrary to the public interest, may approve the assignment or transmission, and an assignment or transmission so approved shall not, unless it is shown that the approval was obtained by fraud or misrepresentation, be deemed to be invalid under this section or section 39 if application for the registration under section 44 of the title of the person becoming entitled is made within six months from the date on which the approval is given or, in the case of a transmission, was made before that date.

Conditions for assignment otherwise than in connection with the goodwill of a business.

41. Where an assignment of a trade mark, whether registered or unregistered, is made otherwise than in connection with the goodwill of the business in which the mark has been or is used, the assignment shall not take effect unless the assignee, not later than the expiration of six months from the date on which the assignment is made or within such extended period, if any, not exceeding three months in the aggregate, as the Registrar may allow, applies to the Registrar for directions with respect to the advertisement of the assignment, and advertises it in such form and manner and within such period as the Registrar may direct.

*Explanation.*—For the purposes of this section an assignment of a trade mark of the following description shall not be deemed to be an assignment made otherwise than in connection with the goodwill of the business in which the mark is used, namely:—

(a) an assignment of a trade mark in respect only of some of the goods for which the trade mark is registered accompanied by the transfer of the goodwill of the business concerned in those goods only; or

(b) an assignment of a trade mark which is used in relation to goods exported from India if the assignment is accompanied by the transfer of the goodwill of the export business only.

Assignability and transmissibility of certification trade marks.

42. A certification trade mark shall not be assignable or transmissible otherwise than with the consent of the Central Government, for which application shall be made in writing in the prescribed manner through the Registrar.

Assignability and transmissibility of associated trade marks.

43. Associated trade marks shall be assignable and transmissible only as a whole and not separately, but, subject to the provisions of this Act, they shall, for all other purposes, be deemed to have been registered as separate trade marks.

Registration of assignments and transmissions.

44. (1) Where a person becomes entitled by assignment or transmission to a registered trade mark, he shall apply in the prescribed manner to the Registrar to register his title, and the Registrar shall, on receipt of the application and on proof of title to his satisfaction, register him as the proprietor of the trade mark in respect of the

goods in respect of which the assignment or transmission has effect, and shall cause particulars of the assignment or transmission to be entered on the register:

Provided that where the validity of an assignment or transmission is in dispute between the parties, the Registrar may refuse to register the assignment or transmission until the rights of the parties have been determined by a competent court.

(2) Except for the purpose of an application before the Registrar under sub-section (1) or an appeal from an order thereon, or an application under section 56 or an appeal from an order thereon, a document or instrument in respect of which no entry has been made in the register in accordance with sub-section (1), shall not be admitted in evidence by the Registrar or any court in proof of title to the trade mark by assignment or transmission unless the Registrar or the court, as the case may be, otherwise directs.

## CHAPTER VI

### USE OF TRADE MARKS AND REGISTERED USERS

45. (1) No application for the registration of a trade mark in respect of any goods shall be refused, nor shall permission for such registration be withheld, on the ground only that it appears that the applicant does not use or propose to use the trade mark, if the Registrar is satisfied that a company is about to be formed and registered under the Companies Act, 1956, and that the applicant intends to assign the trade mark to that company with a view to the use thereof in relation to those goods by the company.

Proposed  
use of trade  
mark by  
company to  
be formed.

of 1956.

(2) The tribunal may, in a case to which sub-section (1) applies, require the applicant to give security for the costs of any proceedings relative to any opposition or appeal, and in default of such security being duly given may treat the application as abandoned.

(3) Where in a case to which sub-section (1) applies, a trade mark in respect of any goods is registered in the name of an applicant who relies on intention to assign the trade mark to a company, then, unless within such period as may be prescribed, or within such further period not exceeding six months as the Registrar may, on application being made to him in the prescribed manner, allow, the company has been registered as the proprietor of the trade mark in respect of those goods, the registration shall cease to have effect in respect thereof at the expiration of that period, and the Registrar shall amend the register accordingly.

Removal  
from regis-  
ter and im-  
position of  
limitations  
on ground of  
non-use.

46. (1) Subject to the provisions of section 47, a registered trade mark may be taken off the register in respect of any of the goods in respect of which it is registered on application made in the prescribed manner to a High Court or to the Registrar by any person aggrieved on the ground either—

(a) that the trade mark was registered without any *bona fide* intention on the part of the applicant for registration that it should be used in relation to those goods by him or, in a case to which the provisions of section 45 apply, by the company concerned, and that there has, in fact, been no *bona fide* use of the trade mark in relation to those goods by any proprietor thereof for the time being up to a date one month before the date of the application; or

(b) that up to a date one month before the date of the application, a continuous period of five years or longer had elapsed during which the trade mark was registered and during which there was no *bona fide* use thereof in relation to those goods by any proprietor thereof for the time being:

Provided that, except where the applicant has been permitted under sub-section (3) of section 12 to register an identical or nearly resembling trade mark in respect of the goods in question or where the tribunal is of opinion that he might properly be permitted so to register such a trade mark, the tribunal may refuse an application under clause (a) or clause (b) in relation to any goods, if it is shown that there has been, before the relevant date or during the relevant period, as the case may be, *bona fide* use of the trade mark by any proprietor thereof for the time being in relation to goods of the same description, being goods in respect of which the trade mark is registered.

(2) Where in relation to any goods in respect of which a trade mark is registered—

(a) the circumstances referred to in clause (b) of sub-section (1) are shown to exist so far as regards non-use of the trade mark in relation to goods to be sold, or otherwise traded in, in a particular place in India (otherwise than for export from India), or in relation to goods to be exported to a particular market outside India; and

(b) a person has been permitted under sub-section (3) of section 12 to register an identical or nearly resembling trade mark in respect of those goods under a registration extending to use in relation to goods to be so sold, or otherwise traded in, or in relation to goods to be so exported, or the tribunal is of

opinion that he might properly be permitted so to register such a trade mark;

on application by that person in the prescribed manner to a High Court or to the Registrar, the tribunal may impose on the registration of the first-mentioned trade mark such limitations as it thinks proper for securing that that registration shall cease to extend to such use.

(3) An applicant shall not be entitled to rely for the purpose of clause (b) of sub-section (1) or for the purposes of sub-section (2) on any non-use of a trade mark which is shown to have been due to special circumstances in the trade and not to any intention to abandon or not to use the trade mark in relation to the goods to which the application relates.

47. (1) Where a trade mark consisting of any invented word has become so well-known as respects any goods in relation to which it is registered and has been used, that the use thereof in relation to other goods would be likely to be taken as indicating a connection in the course of trade between those goods and a person entitled to use the trade mark in relation to the first-mentioned goods, then, notwithstanding that the proprietor registered in respect of the first-mentioned goods does not use or propose to use the trade mark in relation to those other goods and notwithstanding anything in section 46, the trade mark may, on application in the prescribed manner by such proprietor, be registered in his name in respect of those other goods as a defensive trade mark, and while so registered, shall not be liable to be taken off the register in respect of those goods under the said section.

Defensive registration of well-known trade marks.

(2) The registered proprietor of a trade mark may apply for the registration thereof in respect of any goods as a defensive trade mark notwithstanding that it is already registered in his name in respect of those goods otherwise than as a defensive trade mark, or may apply for the registration thereof in respect of any goods otherwise than as a defensive trade mark notwithstanding that it is already registered in his name in respect of those goods as a defensive trade mark, in lieu in each case of the existing registration.

(3) A trade mark registered as a defensive trade mark and that trade mark as otherwise registered in the name of the same proprietor shall, notwithstanding that the respective registrations are in respect of different goods, be deemed to be and shall be registered as, associated trade marks.

(4) On application made in the prescribed manner to a High Court or to the Registrar, by any person aggrieved, the registration of a trade mark as a defensive trade mark may be cancelled on the ground that the requirements of sub-section (1) are no longer

satisfied in respect of any goods in relation to which the trade mark is registered in the name of the same proprietor otherwise than as a defensive trade mark, or may be cancelled as respects any goods in relation to which it is registered as a defensive trade mark on the ground that there is no longer any likelihood that the use of the trade mark in relation to those goods would be taken as giving the indication mentioned in sub-section (1).

(5) The Registrar may at any time cancel the registration as a defensive trade mark of a trade mark of which there is no longer any registration in the name of the same proprietor otherwise than as a defensive trade mark.

(6) Except as otherwise expressly provided in this section, the provisions of this Act shall apply in respect of the registration of trade marks as defensive trade marks and of trade marks so registered as they apply in other cases.

Registered users.

48. (1) Subject to the provisions of section 49, a person other than the registered proprietor of a trade mark may be registered as the registered user thereof in respect of any or all of the goods in respect of which the trade mark is registered otherwise than as a defensive trade mark; but the Central Government may, by rules made in this behalf, provide that no application for registration as such shall be entertained unless the agreement between the parties complies with the conditions laid down in the rules for preventing trafficking in trade marks.

(2) The permitted use of a trade mark shall be deemed to be use by the proprietor thereof, and shall be deemed not to be use by a person other than the proprietor, for the purposes of section 46 or for any other purpose for which such use is material under this Act or any other law.

Application for registration as registered user.

49. (1) Where it is proposed that a person should be registered as a registered user of a trade mark, the registered proprietor and the proposed registered user shall jointly apply in writing to the Registrar in the prescribed manner, and every such application shall be accompanied by—

(i) the agreement in writing or a duly authenticated copy thereof, entered into between the registered proprietor and the proposed registered user with respect to the permitted use of the trade mark; and

(ii) an affidavit made by the registered proprietor or by some person authorised to the satisfaction of the Registrar to act on his behalf,—

(a) giving particulars of the relationship, existing or proposed, between the proprietor and the proposed registered user, including particulars showing the degree of control



by the proprietor over the permitted use which their relationship will confer and whether it is a term of their relationship that the proposed registered user shall be the sole registered user or that there shall be any other restriction as to persons for whose registration as registered users application may be made;

(b) stating the goods in respect of which registration is proposed;

(c) stating the conditions or restrictions, if any, proposed with respect to the characteristics of the goods, to the mode or place of permitted use, or to any other matter;

(d) stating whether the permitted use is to be for a period or without limit of period, and, if for a period, the duration thereof; and

(iii) such further documents or other evidence as may be required by the Registrar or as may be prescribed.

(2) When the requirements of sub-section (1) have been complied with to his satisfaction, the Registrar shall forward the application together with his report and all the relevant documents to the Central Government.

(3) On receipt of an application under sub-section (2), the Central Government, having regard to all the circumstances of the case and to the interests of the general public, and the development of any industry, trade or commerce in India, may direct the Registrar—

(a) to refuse the application; or

(b) to accept the application either absolutely or subject to any conditions, restrictions or limitations which the Central Government may think proper to impose:

Provided that no direction for refusing the application or for its acceptance conditionally shall be made unless the applicant has been given an opportunity of being heard.

(4) The Registrar shall dispose of the application in accordance with the directions issued by the Central Government under sub-section (3).

(5) The Central Government and the Registrar shall, if so requested by the applicant, take steps for securing that information given for the purposes of an application under this section (other than matters entered in the register) is not disclosed to rivals in trade.

(6) The Registrar shall issue notice in the prescribed manner of the registration of a person as a registered user, to other registered users of the trade mark, if any.

Existing registrations of registered users not to have effect after three years.

50. Notwithstanding anything contained in any law for the time being in force or in any contract or agreement, every registration made before the commencement of this Act of a registered user shall cease to have effect after the expiration of three years from such commencement.

Power of registered user to take proceedings against infringement.

51. (1) Subject to any agreement subsisting between the parties, a registered user of a trade mark shall be entitled to call upon the proprietor thereof to take proceedings to prevent infringement thereof, and if the proprietor refuses or neglects to do so within three months after being so called upon, the registered user may institute proceedings for infringement in his own name as if he were the proprietor, making the proprietor a defendant.

(2) Notwithstanding anything contained in any other law, a proprietor so added as defendant shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

Power of Registrar to vary or cancel registration as registered user.

52. (1) Without prejudice to the provisions of section 56, the registration of a person as a registered user—

(a) may be varied by the Registrar as regards the goods in respect of which or any conditions or restrictions subject to which, it has effect, on the application in writing in the prescribed manner of the registered proprietor of the trade mark;

(b) may be cancelled by the Registrar on the application in writing in the prescribed manner of the registered proprietor or of the registered user or of any other registered user of the trade mark;

(c) may be cancelled by the Registrar on the application in writing in the prescribed manner of any person on any of the following grounds; namely:—

(i) that the registered user has used the trade mark otherwise than by way of the permitted use, or in such a way as to cause or to be likely to cause, deception or confusion;

(ii) that the proprietor or the registered user misrepresented, or failed to disclose, some fact material to the application for registration, which if accurately represented or disclosed would have justified the refusal of the application for registration of the registered user;

(iii) that the circumstances have changed since the date of registration in such a way that at the date of such application for cancellation they would have justified the refusal of an application for registration of the registered user;

(iv) that the registration ought not to have been effected having regard to rights vested in the applicant by virtue of a contract in the performance of which he is interested;

(d) may be cancelled by the Registrar of his own motion or on the application in writing in the prescribed manner of any person, on the ground that any stipulation in the agreement between the registered proprietor and the registered user regarding the quality of the goods in relation to which the trade mark is to be used is either not being enforced or is not being complied with;

(e) may be cancelled by the Registrar in respect of any goods in relation to which the trade mark is no longer registered.

(2) The Registrar shall, before varying any registration under clause (a) of sub-section (1) or cancelling any registration on any of the grounds mentioned in sub-clause (ii) or sub-clause (iii) or sub-clause (iv) of clause (c) of that sub-section, forward the application made in that behalf for the consideration of the Central Government, and the Central Government may, after making such inquiry as it thinks fit, issue such directions to the Registrar as it thinks fit, and the Registrar shall dispose of the application in accordance with such directions.

(3) The Registrar shall issue notice in the prescribed manner of every application under this section to the registered proprietor and each registered user (not being the applicant) of the trade mark.

53. Nothing in this Act shall confer on a registered user of a trade mark any assignable or transmissible right to the use thereof.

Registered user not to have right of assignment or transmission.

*Explanation 1.*—The right of a registered user of a trade mark shall not be deemed to have been assigned or transmitted within the meaning of this section in the following cases, namely:—

(a) where the registered user being an individual enters into a partnership with any other person for carrying on the business concerned; but in any such case the firm may use the trade mark, if otherwise in force, only for so long as the registered user is a member of the firm;

(b) where the registered user being a firm subsequently undergoes a change in its constitution; but in any such case the reconstituted firm may use the trade mark, if otherwise in force, only for so long as any partner of the original firm at the time of its registration as registered user, continues to be a partner of the reconstituted firm.

*Explanation 2.*—For the purposes of *Explanation 1*, "firm" has the same meaning as in the Indian Partnership Act, 1932.

Use of one of associated or substantially identical trade marks equivalent to use of another.

54. (1) Where under the provisions of this Act use of a registered trade mark is required to be proved for any purpose, the tribunal may, if and so far as it shall think right, accept use of a registered associated trade mark, or of the trade mark with additions or alterations not substantially affecting its identity, as an equivalent for the use required to be proved.

(2) The use of the whole of a registered trade mark shall for the purposes of this Act be deemed to be also a use of any trade mark being a part thereof and registered in accordance with subsection (1) of section 15 in the name of the same proprietor.

Use of trade mark for export trade and use when form of trade connection changes.

55. (1) The application in India of trade mark to goods to be exported from India and any other act done in India in relation to goods to be so exported which, if done in relation to goods to be sold or otherwise traded in within India would constitute use of a trade mark therein, shall be deemed to constitute use of the trade mark in relation to those goods for any purpose for which such use is material under this Act or any other law.

(2) The use of a registered trade mark in relation to goods between which and the person using the mark any form of connection in the course of trade subsists shall not be deemed to be likely to cause deception or confusion on the ground only that the mark has been or is used in relation to goods between which and the said person or a predecessor in title of that person a different form of connection in the course of trade subsisted or subsists.

## CHAPTER VII

### RECTIFICATION AND CORRECTION OF THE REGISTER

Power to cancel or vary registration and to rectify the register.

56. (1) On application made in the prescribed manner to a High Court or to the Registrar by any person aggrieved, the tribunal may make such order as it may think fit for cancelling or varying the registration of a trade mark on the ground of any contravention, or failure to observe a condition entered on the register in relation thereto.

(2) Any person aggrieved by the absence or omission from the register of any entry, or by any entry made in the register without sufficient cause, or by any entry wrongly remaining on the register, or by any error or defect in any entry in the register, may apply in the prescribed manner to a High Court or to the Registrar, and the tribunal may make such order for making, expunging or varying the entry as it may think fit.

(3) The tribunal may in any proceeding under this section decide any question that may be necessary or expedient to decide in connection with the rectification of the register.

(4) The tribunal, of its own motion, may, after giving notice in the prescribed manner to the parties concerned and after giving them an opportunity of being heard, make any order referred to in sub-section (1) or sub-section (2).

(5) Any order of the High Court rectifying the register shall direct that notice of the rectification shall be served upon the Registrar in the prescribed manner who shall upon receipt of such notice rectify the register accordingly.

(6) The power to rectify the register conferred by this section shall include the power to remove a trade mark registered in Part A of the register to Part B of the register.

57. (1) The Registrar may, on application made in the prescribed manner by the registered proprietor,—

Correction  
of register.

(a) correct any error in the name, address or description of the registered proprietor of a trade mark, or any other entry relating to the trade mark;

(b) enter any change in the name, address or description of the person who is registered as proprietor of a trade mark;

(c) cancel the entry of a trade mark on the register;

(d) strike out any goods or classes of goods from those in respect of which a trade mark is registered;

(e) enter a disclaimer or memorandum relating to a trade mark which does not in any way extend the rights given by the existing registration of the trade mark;

and may make any consequential amendment or alteration in the certificate of registration, and for that purpose, may require the certificate of registration to be produced to him.

(2) The Registrar may, on application made in the prescribed manner by a registered user of a trade mark, and after notice to the registered proprietor, correct any error, or enter any change, in the name, address or description of the registered user.

58. (1) The registered proprietor of trade mark may apply in the prescribed manner to the Registrar for leave to add to or alter the trade mark in any manner not substantially affecting the identity thereof, and the Registrar may refuse leave or may grant it on such terms and subject to such limitations as he may think fit.

Alteration  
of registered  
trade marks.

(2) The Registrar may cause an application under this section to be advertised in the prescribed manner in any case where it appears to him that it is expedient so to do, and where he does so, if within the prescribed time from the date of the advertisement any person gives notice to the Registrar in the prescribed manner of opposition to the application, the Registrar shall, after hearing the parties if so required, decide the matter.

(3) Where leave is granted under this section, the trade mark as altered shall be advertised in the prescribed manner, unless the application has already been advertised under sub-section (2).

adaptation  
of entries in  
register to  
amended or  
substituted  
classification  
of goods.

59. (1) The Registrar shall not, in exercise of any power conferred on him by rules made with reference to clause (a) of sub-section (2) of section 133, make any amendment of the register which would have the effect of adding any goods or classes of goods to those in respect of which a trade mark is registered (whether in one or more classes) immediately before the amendment is to be made or of antedating the registration of a trade mark in respect of any goods:

Provided that this sub-section shall not apply when the Registrar is satisfied that compliance therewith would involve undue complexity and that the addition or antedating, as the case may be, would not affect any substantial quantity of goods and would not substantially prejudice the rights of any person.

(2) A proposal so to amend the register shall be notified to the registered proprietor of the trade mark affected and advertised in the prescribed manner, and may be opposed before the Registrar by any person aggrieved on the ground that the proposed amendment contravenes the provisions of sub-section (1).

## CHAPTER VIII

### CERTIFICATION TRADE MARKS

Certain  
provisions of  
this Act not  
applicable to  
certification  
trade marks.

60. The following provisions of this Act shall not apply to certification trade marks, that is to say,—

- (a) section 9;
- (b) sections 18, 20 and 21, except as expressly applied by this Chapter;
- (c) sections 28, 29, 30, 39, 40, 41, 45, 46, 47, 48, 49, 51, 52, 53 and sub-section (2) of section 55;
- (d) Chapter X, except section 81;
- (e) any provision the operation of which is limited by the terms thereof to registration in Part B of the register.

61. (1) A certification trade mark shall be registrable only in Part A of the register.

Registration of certification trade marks.

(2) A mark shall not be registrable as a certification trade mark in the name of a person who carries on a trade in goods of the kind certified.

(3) In determining whether a certification trade mark is adapted to distinguish in accordance with the provisions of clause (c) of sub-section (1) of section 2, the tribunal may have regard to the extent to which—

(a) the mark is inherently so adapted to distinguish in relation to the goods in question; and

(b) by reason of the use of the mark or of any other circumstances, the mark is in fact so adapted to distinguish in relation to the goods in question.

62. (1) An application for the registration of a mark as a certification trade mark shall be made to the Registrar in writing in the prescribed manner by the person proposed to be registered as the proprietor thereof, and accompanied by a draft of the regulations to be deposited under section 65.

Applications for registration of certification trade marks.

(2) Subject to the provisions of section 61, the provisions of sub-sections (1), (2), (3), (4) and (6) of section 18 and of sections 19 and 22 shall apply in relation to an application under this section as they apply in relation to an application under section 18, subject to the modification that references therein to acceptance of an application shall be construed as references to authorisation to proceed with an application.

(3) In dealing under the said provisions with an application under this section, the tribunal shall have regard to the like considerations, so far as relevant, as if the application were an application under section 18 and to any other considerations (not being matters within the competence of the Central Government under section 63) relevant to applications under this section, including the desirability of securing that a certification trade mark shall comprise some indication that it is a certification trade mark.

63. (1) When authorisation to proceed with an application under section 62 has been given, the Registrar shall forward the application to the Central Government.

Consideration of applications for registration by Central Government.

(2) The Central Government shall consider the application so forwarded with regard to the following matters, namely:—

(a) whether the applicant is competent to certify the goods in respect of which the mark is to be registered;

(b) whether the draft of the regulations to be deposited under section 65 is satisfactory;

(c) whether in all the circumstances the registration applied for would be to the public advantage;

and may either—

(i) direct that the application shall not be accepted; or

(ii) direct the Registrar to accept the application and approve the said draft of the regulations either without modification and unconditionally or subject to any conditions or limitations, or to any amendments or modification of the application or of the regulations, which it thinks requisite having regard to any of the said matters.

(3) Except in the case of a direction for acceptance and approval without modification and unconditionally, the Central Government shall not decide any matter under sub-section (2) without giving to the applicant an opportunity of being heard.

(4) Notwithstanding anything contained in this section, the Central Government may, at the request of the applicant made through the Registrar, consider the application with regard to any of the matters referred to in sub-section (2) before authorisation to proceed with the application is given, but the Central Government shall be at liberty to reconsider any matter on which it has given a decision under this sub-section if any amendment or modification is thereafter made in the application or in the draft of the regulations.

Opposition  
to registra-  
tion of cer-  
tification  
trade marks.

64. (1) When an application has been accepted, the Registrar shall, as soon as may be thereafter, cause the application as accepted to be advertised in the prescribed manner, and the provisions of section 21 shall apply in relation to the registration of the mark as they apply in relation to an application under section 18.

(2) In deciding any matter relating to opposition proceedings under the provisions aforesaid the tribunal shall have regard only to the considerations referred to in sub-section (3) of section 62, and a decision under the said provisions in favour of the applicant shall be conditional on the determination in his favour by the Central Government under sub-section (3) of this section of any opposition relating to any of the matters referred to in section 63.



(3) When notice of opposition is given relating to any of the matters referred to in section 63, the Central Government shall, after hearing the parties, if so required by them, and considering any evidence and having regard to the matters aforesaid, direct the Registrar—

- (a) to refuse registration; or
- (b) to register the mark either absolutely or subject to such conditions or limitations, or amendments or modifications of the application or of the regulations to be deposited under section 65, as the Central Government may think proper to impose or make;

and the Registrar shall dispose of the matter in accordance with the directions issued by the Central Government under this sub-section.

65. (1) There shall be deposited at the Trade Marks Registry in respect of every mark registered as a certification trade mark regulations approved by the Central Government for governing the use thereof, which shall include provisions as to the cases in which the proprietor is to certify goods and to authorise the use of the certification trade mark, and may contain any other provisions which the Central Government may, by general or special order, require or permit to be inserted therein (including provisions conferring a right of appeal to the Registrar against any refusal of the proprietor to certify goods or to authorise the use of the certification trade mark in accordance with the regulations); and regulations so deposited shall be open to inspection in like manner as the register.

Deposit of regulations governing the use of a certification trade mark.

(2) The regulations so deposited may on the application of the registered proprietor be altered by the Registrar with the consent of the Central Government.

(3) The Central Government may cause such application to be advertised in any case where it appears to it expedient so to do, and where it does so, if within the time specified in the advertisement any person gives notice of opposition to the application, the Central Government shall not decide the matter without giving the parties an opportunity of being heard.

66. (1) Subject to the provisions of sections 33, 34 and 68, the registration of a person as proprietor of a certification trade mark in respect of any goods shall, if valid, give to that person the exclusive right to the use of the mark in relation to those goods.

Rights conferred by registration of certification trade-marks.

(2) The exclusive right to the use of a certification trade mark given under sub-section (1) shall be subject to any conditions and limitations to which the registration is subject.

Infringe-  
ment of cer-  
tification  
trade marks.

67. The right conferred by section 66 is infringed by any person who, not being the registered proprietor of the certification trade mark or a person authorised by him in that behalf under the regulations deposited under section 65, using it in accordance therewith, uses in the course of trade, a mark which is identical with, or deceptively similar to, the certification trade mark in relation to any goods in respect of which it is registered, and in such manner as to render the use of the mark likely to be taken as being use as a trade mark.

Acts not  
constituting  
infringement  
of certifica-  
tion trade  
marks.

68. (1) Notwithstanding anything contained in this Act, the following acts do not constitute an infringement of the right to the use of a registered certification trade mark:—

(a) where a certification trade mark is registered subject to any conditions or limitations entered on the register, the use of any such mark in any mode, in relation to goods to be sold or otherwise traded in any place, or in relation to goods to be exported to any market or in any other circumstances, to which having regard to any such limitations, the registration does not extend;

(b) the use of a certification trade mark in relation to goods certified by the proprietor of the mark if, as to those goods or a bulk of which they form part, the proprietor or another in accordance with his authorisation under the relevant regulations has applied the mark and has not subsequently removed or obliterated it, or the proprietor has at any time expressly or impliedly consented to the use of the mark;

(c) the use of a certification trade mark in relation to goods adapted to form part of, or to be accessory to, other goods in relation to which the mark has been used without infringement of the right given as aforesaid or might for the time being be so used, if the use of the mark is reasonably necessary in order to indicate that the goods are so adapted and neither the purpose nor the effect of the use of the mark is to indicate otherwise than in accordance with the fact that the goods are certified by the proprietor.

(2) Clause (b) of sub-section (1) shall not apply to the case of use consisting of the application of a certification trade mark to goods, notwithstanding that they are such goods as are mentioned in that clause if such application is contrary to the regulations referred to in that clause.

(3) Where a certification trade mark is one of two or more trade marks registered under this Act, which are identical or nearly resemble each other, the use of any of those trade marks in exercise

of the right to the use of that trade mark given by registration, shall not be deemed to be an infringement of the right so given to the use of any other of those trade marks.

69. The Central Government may, on the application in the prescribed manner of any person aggrieved or on the recommendation of the Registrar, and after giving the proprietor an opportunity of opposing the application or recommendation, make such order as it thinks fit for expunging or varying any entry in the register relating to a certification trade mark, or for varying the deposited regulations, on any of the following grounds, namely:—

Cancellation or varying of registration.

(a) that the proprietor is no longer competent, in the case of any of the goods in respect of which the mark is registered, to certify those goods;

(b) that the proprietor has failed to observe any provision of the deposited regulations to be observed on his part;

(c) that it is no longer to the public advantage that the mark should remain registered;

(d) that it is requisite for the public advantage that, if the mark remains registered, the regulations should be varied; and neither a High Court nor the Registrar shall have any jurisdiction to make an order under section 56 on any of those grounds.

70. The Registrar shall rectify the register and the deposited regulations in such manner as may be requisite for giving effect to an order made by the Central Government under section 69.

Registrar to give effect to orders of Central Government.

## CHAPTER IX

### SPECIAL PROVISIONS FOR TEXTILE GOODS

71. The Central Government may prescribe classes of goods (in this Chapter referred to as textile goods) to the trade marks used in relation to which the provisions of this Chapter shall apply; and subject to the said provisions, the other provisions of this Act shall apply to such trade marks as they apply to trade marks used in relation to other classes of goods.

Textile goods.

72. (1) In respect of textile goods being piece goods—

(a) no mark consisting of a line heading alone shall be registrable as a trade mark;

Restriction on registration of textile goods.

(b) a line heading shall not be deemed to be adapted to distinguish;

(c) the registration of a trade mark shall not give any exclusive right to the use of a line heading.

(2) In respect of any textile goods, the registration of letters or numerals, or any combination thereof, shall be subject to such conditions and restrictions as may be prescribed.

Refused Textile Marks List.

73. (1) No addition shall, after the commencement of this Act, be made to the Refused Textile Marks List maintained under the Trade Marks Act, 1940.

5 of 1940.

(2) A mark already entered on the Refused Textile Marks List may, however, be continued to be so entered:

Provided that an application therefor is made in the prescribed manner and with the prescribed fee within one year after the commencement of this Act, in which case it will be retained in the List for a period of seven years from the date of the application.

Stamping of piece goods, cotton yarn and thread.

74. (1) Piece goods, such as are ordinarily sold by length or by the piece, which have been manufactured, bleached, dyed, printed or finished in premises which are a factory, as defined in the Factories Act, 1948, shall not be removed for sale from the last of such premises in which they underwent any of the said processes without having conspicuously stamped in international form of Indian numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, or in standard metres or in standard metres and a fraction of such a metre, according to the real length of the piece, and, except when the goods are sold from the factory for export from India, without being conspicuously marked on each piece with the name of the manufacturer or of the occupier of the premises in which the piece was finally processed or of the wholesale purchaser in India of the piece.

63 of 1948.

(2) Cotton yarn such as is ordinarily sold in bundles, and cotton thread, namely, sewing, darning, crochet or handicraft thread, which have been manufactured, bleached, dyed, or finished in any premises not exempted by the rules made under section 75 shall not be removed for sale from those premises unless, in accordance with the said rules in the case of yarn—

(a) the bundles are conspicuously marked with an indication of the weight of yarn in the English or the metric system in each bundle; and

(b) the count of the yarn contained in the bundle and in the case of thread each unit is conspicuously marked with the length or weight of thread in the unit and in such other manner as may be required by the said rules; and

(c) except where the goods are sold from the premises for export from India, unless each bundle or unit is conspicuously marked with the name of the manufacturer or of the wholesale purchaser in India of the goods:

Provided that the rules made under section 75 shall exempt all premises where the work is done by members of one family with or without the assistance of not more than ten other employees, and all premises controlled by a co-operative society where not more than twenty workers are employed in the premises.

75. (1) For the purposes of this Act, the Central Government may make rules,—

Determina-  
tion of cha-  
racter of tex-  
tile goods by  
sampling.

(a) to provide, with respect to any goods which purport or are alleged to be of uniform number, quantity, measure, gauge or weight, for the number of samples to be selected and tested and for the selection of the samples;

(b) to provide for the manner in which for the purposes of section 74 cotton yarn and cotton thread shall be marked with the particulars required by that section, and for the exemption of certain premises used for the manufacture, bleaching, dyeing or finishing of cotton yarn or cotton thread from the provisions of that section; and

(c) declaring what classes of goods are included in the expression "piece goods such as are ordinarily sold by length or by the piece" for the purpose of section 74 of this Act or section 18 of the Sea Customs Act, 1878.

8 of 1878.

(2) With respect to any goods for the selection and testing of samples of which provision is not made in any rules for the time being in force under sub-section (1), the court or officer of customs, as the case may be, having occasion to ascertain the number, quantity, measure, gauge or weight of the goods, shall, by order in writing, determine the number of samples to be selected and tested and the manner in which the samples are to be selected.

(3) The average of the results of the testing in pursuance of rules under sub-section (1) or of an order under sub-section (2) shall be *prima facie* evidence of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

(4) If a person having any claim to, or in relation to, any goods of which samples have been selected and tested in pursuance of rules under sub-section (1) or of an order under sub-section

(2); desires that any further samples of the goods be selected and tested, such further samples shall, on his written application and on the payment in advance by him to the court or officer of customs, as the case may be, of such sums for defraying the cost of the further selection and testing as the court or officer may from time to time require, be selected and tested to such extent as may be permitted by rules made by the Central Government in this behalf or as, in the case of goods with respect to which provision is not made in such rules, the court or officer of customs may determine in the circumstances to be reasonable, the samples being selected in the manner prescribed under sub-section (1), or in sub-section (2), as the case may be.

(5) The average of the results of the testing referred to in sub-section (3) and of the further testing under sub-section (4) shall be conclusive proof of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

## CHAPTER X

### OFFENCES, PENALTIES AND PROCEDURE

Meaning of applying trade marks and trade descriptions.

76. (1) A person shall be deemed to apply a trade mark or mark or trade description to goods who—

(a) applies it to the goods themselves; or

(b) applies it to any package in or with which the goods are sold, or exposed for sale, or had in possession for sale or for any purpose of trade or manufacture; or

(c) places, enclosés, or annexes any goods which are sold, or exposed for sale, or had in possession for sale or for any purpose of trade or manufacture, in or with any package or other thing to which a trade mark or mark or trade description has been applied; or

(d) uses a trade mark or mark or trade description in any manner reasonably likely to lead to the belief that the goods in connection with which it is used are designated or described by that trade mark or mark or trade description; or

(e) in relation to the goods uses a trade mark or trade description in any sign, advertisement, invoice, catalogue, business letter, business paper, price list, or other commercial document, and goods are delivered to a person in pursuance of a request or order made by reference to the trade mark or trade description as so used.

(2) A trade mark or mark, or trade description shall be deemed to be applied to goods whether it is woven in, impressed on, or otherwise worked into, or annexed or affixed to, the goods or to any package or other thing.

77. (1) A person shall be deemed to falsify a trade mark who, either,—

Falsifying and falsely applying trade marks.

(a) without the assent of the proprietor of the trade mark makes that trade mark or a deceptively similar mark; or

(b) falsifies any genuine trade mark, whether by alteration, addition, effacement or otherwise.

(2) A person shall be deemed to falsely apply to goods a trade mark who, without the assent of the proprietor of the trade mark,—

(a) applies such trade mark or a deceptively similar mark, to goods or any package containing goods;

(b) uses any package bearing a mark which is identical with or deceptively similar to the trade mark of such proprietor, for the purpose of packing, filling, or wrapping therein any goods other than the genuine goods of the proprietor of the trade mark.

(3) Any trade mark falsified as mentioned in sub-section (1) or falsely applied as mentioned in sub-section (2), is in this Act referred to as a false trade mark.

(4) In any prosecution for falsifying a trade mark or falsely applying a trade mark to goods, the burden of proving the assent of the proprietor shall lie on the accused.

78. Any person who,—

(a) falsifies any trade mark; or

(b) falsely applies to goods any trade mark; or

(c) makes, disposes of, or has in his possession, any die, block, machine, plate or other instrument for the purpose of falsifying, or of being used for falsifying, a trade mark; or

(d) applies any false trade description to goods; or

(e) applies to any goods to which an indication of the country or place in which they were made or produced or the name and address of the manufacturer or person for whom the goods are manufactured is required to be applied under section 117, a false indication of such country, place, name or address; or

(f) tampers with, alters or effaces an indication of origin which has been applied to any goods to which it is required to be applied under section 117; or

Penalty for applying false trade marks, trade descriptions, etc.

(g) causes any of the things above mentioned in this section to be done;

shall, unless he proves that he acted without intent to defraud, be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:

Provided that where the offence under this section is in relation to goods or any package containing goods which are drugs within the meaning of clause (b) of section 3 of the Drugs Act, 1940, or "food" as defined in clause (v) of section 2 of the Prevention of Food Adulteration Act, 1954, the offender shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Penalty for selling goods to which a false trade mark or false trade description is applied.

79. Any person who sells, or exposes for sale, or has in his possession for sale or for any purpose of trade or manufacture, any goods or things to which any false trade mark or false trade description is applied or which, being required under section 117 to have applied to them an indication of the country or place in which they were made or produced or the name and address of the manufacturer or the person for whom the goods are manufactured, are without the indication so required, shall, unless he proves,—

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade mark or trade description or that any offence had been committed in respect of the goods; and

(b) that, on demand by or on behalf of the prosecutor, he gave all the information in his power with respect to the person from whom he obtained such goods or things; or

(c) that otherwise he had acted innocently;

be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:

Provided that when the offence against this section is in relation to goods or any package containing goods which are drugs as defined in clause (b) of section 3 of the Drugs Act, 1940, or "food" as defined in clause (v) of section 2 of the Prevention of Food Adulteration Act, 1954, the offender shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Penalty for removing piece goods, etc., contrary to section 74.

80. If any person removes or attempts to remove or causes or attempts to cause to be removed for sale from any premises referred to in section 74, or sells or exposes for sale or has in his possession



for sale or for any purpose of trade or manufacture piece goods or cotton yarn or cotton thread which is not marked as required by that section, every such piece and every such bundle of yarn and all such thread and everything used for the packing thereof shall be forfeited to Government and such person shall be punishable with fine which may extend to one thousand rupees.

81. (1) No person shall make any representation—

Penalty for  
falsely  
representing  
a trade mark  
as registered.

(a) with respect to a mark not being a registered trade mark, to the effect that it is a registered trade mark; or

(b) with respect to a part of a registered trade mark not being a part separately registered as a trade mark, to the effect that it is separately registered as a trade mark; or

(c) to the effect that a registered trade mark is registered in respect of any goods in respect of which it is not in fact registered; or

(d) to the effect that the registration of a trade mark gives an exclusive right to the use thereof in any circumstances in which, having regard to limitations entered on the register, the registration does not in fact give that right.

(2) If any person contravenes any of the provisions of subsection (1), he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(3) For the purposes of this section, the use in India in relation to a trade mark of the word "registered", or of any other expression referring expressly or impliedly to registration, shall be deemed to import a reference to registration in the register, except—

(a) where that word or other expression is used in direct association with other words delineated in characters at least as large as those in which that word or other expression is delineated and indicating that the reference is to registration as a trade mark under the law of a country outside India being a country under the law of which the registration referred to is in fact in force; or

(b) where that other expression is of itself such as to indicate that the reference is to such registration as is mentioned in clause (a); or

(c) where that word is used in relation to a mark registered as a trade mark under the law of a country outside India and in relation solely to goods to be exported to that country.

Penalty for improperly describing a place of business as connected with the Trade Marks Office.

82. If any person uses on his place of business, or on any document issued by him, or otherwise, words which would reasonably lead to the belief that his place of business is, or is officially connected with, the Trade Marks Office, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Penalty for falsification of entries in the register.

83. If any person makes, or causes to be made, a false entry in the register, or a writing falsely purporting to be a copy of an entry in the register, or produces or tenders, or causes to be produced or tendered, in evidence any such writing, knowing the entry or writing to be false, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

No offence in certain cases.

84. The provisions of sections 77, 78 and 79 shall, in relation to a registered trade mark or proprietor of such mark, be subject to the rights created or recognised by this Act, and no act or omission shall be deemed to be an offence under section 77 or section 78 or section 79 if,—

(a) the alleged offence relates to a registered trade mark and the act or omission is permitted under this Act; and

(b) the alleged offence relates to a registered or an unregistered trade mark and the act or omission is permitted under any other law for the time being in force.

Forfeiture of goods.

85. (1) Where a person is convicted of an offence under section 78 or section 79, or is acquitted of an offence under section 78 on proof that he acted without intent to defraud, or under section 79 on proof of the matters specified in clauses (a), (b) and (c) of that section, the court convicting or acquitting him may direct the forfeiture to Government of all goods and things by means of, or in relation to, which the offence has been committed, or but for such proof as aforesaid would have been committed.

(2) When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(3) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the court to which in appealable cases appeals lie from sentences of the court which directed the forfeiture.

(4) When a forfeiture is directed on a conviction the court, before whom the person is convicted, may order any forfeited articles to be destroyed or otherwise disposed of as the court thinks fit.

86. Where a person accused of an offence under section 78 proves—

Exemption of certain persons employed in ordinary course of business.

(a) that in the ordinary course of his business he is employed on behalf of other persons to apply trade marks or trade descriptions, or; as the case may be, to make dies, blocks, machines, plates, or other instruments for making, or being used in making, trade marks; and

(b) that in the case which is the subject of the charge he was so employed, and was not interested in the goods or other thing by way of profit or commission dependent on the sale of such goods; and

(c) that, having taken all reasonable precautions against committing the offence charged, he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark or trade description; and

(d) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the trade mark or trade description was applied;

he shall be acquitted.

87. (1) Where the offence charged under section 78 or section 79 is in relation to a registered trade mark and the accused pleads that the registration of the trade mark is invalid, the following procedure shall be followed:—

Procedure where invalidity of registration is pleaded by the accused.

(a) If the magistrate is satisfied that such defence is *prima facie* tenable, he shall not proceed with the charge but shall adjourn the proceeding for three months from the date on which the plea of the accused is recorded to enable the accused to file an application before the High Court under this Act, for the rectification of the register on the ground that the registration is invalid.

(b) If the accused proves to the magistrate that he has made such application within the time so limited or within such further time as the magistrate may for sufficient cause allow, the further proceedings in the prosecution shall stand stayed till the disposal of such application for rectification and of the appeal, if any, therefrom.

(c) If within a period of three months or within such extended time as may be allowed by the magistrate the accused fails to apply to the High Court for rectification of the register, the magistrate shall proceed with the case as if the registration were valid.

(2) Where before the institution of a complaint of an offence referred to in sub-section (1), any application for the rectification of the register concerning the trade mark in question on the ground of invalidity of the registration thereof has already been properly made to and is pending before the tribunal, the magistrate shall stay the further proceedings in the prosecution pending the disposal of the application aforesaid and shall determine the charge against the accused in conformity with the result of the application for rectification in so far as the complainant relies upon the registration of his mark.

Offences by  
companies.

88. (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, 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.

89. (1) No court shall take cognizance of an offence under section 81, section 82 or section 83 except on complaint in writing made by the Registrar or any officer authorised by him in writing.

Cognizance of certain offences.

(2) No court inferior to that of a sessions judge, presidency magistrate or magistrate of the first class shall try an offence under this Act.

90. In the case of goods brought into India by sea, evidence of the port of shipment shall, in a prosecution for an offence under this Act or under clause (d), clause (dd), clause (e), clause (f), clause (h), clause (i) or clause (j) of section 18 of the Sea Customs Act, 1878, be *prima facie* evidence of the place or country in which the goods were made or produced.

Evidence of origin of goods imported by sea.

s of 1878.

91. In any prosecution under this Act, the court may order such costs to be paid by the accused to the complainant, or by the complainant to the accused, as the court deemed reasonable having regard to all the circumstances of the case and the conduct of the parties. Costs so awarded shall be recoverable as if they were a fine.

Costs of defence or prosecution.

s of 1878.

92. No prosecution for an offence under this Act or under clause (d), clause (dd), clause (e), clause (f), clause (h), clause (i) or clause (j) of section 18 of the Sea Customs Act, 1878, shall be commenced after the expiration of three years next after the commission of the offence charged, or two years after the discovery thereof by the prosecutor, whichever expiration first happens.

Limitation of prosecution.

93. An officer of the Government whose duty it is to take part in the enforcement of the provisions of this Chapter, shall not be compelled in any court to say whence he got any information as to the commission of any offence against this Act.

Information as to commission of offence.

94. If any person, being within India, abets the commission, without India, of any act which, if committed in India, would, under this Act, be an offence, he may be tried for such abetment in any place in India in which he may be found, and be punished therefor with the punishment to which he would be liable if he had himself committed in that place the act which he abetted.

Punishment of abetment in India of acts done out of India.

95. The Central Government may, by notification in the Official Gazette, issue instructions for the limits of variation, as regards number, quantity, measure, gauge or weight, which are to be recognised by criminal courts as permissible in the case of any goods.

Instructions by Central Government as to permissible variations to be observed by criminal courts.

## CHAPTER XI

## MISCELLANEOUS

Implied  
warranty on  
sale of  
marked  
goods.

96. On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark and not falsely applied, or that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer.

Powers of  
Registrar.

97. In all proceedings under this Act before the Registrar—

(a) the Registrar shall have all the powers of a civil court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, compelling the discovery and production of documents and issuing commissions for the examination of witnesses;

(b) the Registrar may, subject to any rules made in this behalf under section 133, make such orders as to costs as he considers reasonable, and any such order shall be executable as a decree of a civil court:

Provided that the Registrar shall have no power to award costs to or against any party on an appeal to him against a refusal of the proprietor of a certification trade mark to certify goods or to authorise the use of the mark;

(c) the Registrar may, on an application made in the prescribed manner, review his own decision.

Exercise of  
discretion-  
ary power  
by Registrar.

98. Subject to the provisions of section 101, the Registrar shall not exercise any discretionary or other power vested in him by this Act or the rules made thereunder adversely to a person applying for the exercise of that power without (if so required by that person within the prescribed time) giving to that person an opportunity of being heard.

Evidence  
before the  
Registrar.

99. In any proceeding under this Act before the Registrar, evidence shall be given by affidavit:

Provided that the Registrar may, if he thinks fit, take oral evidence in lieu of, or in addition to, such evidence by affidavit.

100. If a person who is a party to a proceeding under this Act (not being a proceeding in a court) dies pending the proceeding, the Registrar may, on request, and on proof to his satisfaction of the transmission of the interest of the deceased person, substitute in the proceeding his successor in interest in his place, or, if the Registrar is of opinion that the interest of the deceased person is sufficiently represented by the surviving parties, permit the proceeding to continue without the substitution of his successor in interest.

Death of party to a proceeding.

101. (1) If the Registrar is satisfied, on application made to him in the prescribed manner and accompanied by the prescribed fee, that there is sufficient cause for extending the time for doing any act (not being a time expressly provided in the Act), whether the time so specified has expired or not, he may, subject to such conditions as he may think fit to impose, extend the time and notify the parties accordingly.

Extension of time.

(2) Nothing in sub-section (1) shall be deemed to require the Registrar to hear the parties before disposing of an application for extension of time, and no appeal shall lie from any order of the Registrar under this section.

102. Where, in the opinion of the Registrar, an applicant is in default in the prosecution of an application filed under this Act or any Act relating to trade marks in force prior to the commencement of this Act, the Registrar may by notice require the applicant to remedy the default within a time specified and after giving him, if so desired, an opportunity of being heard, treat the application as abandoned, unless the default is remedied within the time specified in the notice.

Abandonment.

103. (1) The Registrar may, on application made to him in the prescribed manner by any person who proposes to apply for the registration of a trade mark in Part A or Part B of the register, give advice as to whether the trade mark appears to him *prima facie* to be inherently adapted to distinguish, or capable of distinguishing, as the case may be.

Preliminary advice by the Registrar as to distinctiveness.

(2) If, on an application for the registration of a trade mark as to which the Registrar has given advice as aforesaid in the affirmative made within three months after the advice was given, the Registrar, after further investigation or consideration, gives notice to the applicant of objection on the ground that the trade mark is not adapted to distinguish, or is not capable of distinguishing, as the case may be, the applicant shall be entitled, on giving notice of withdrawal of the application within the prescribed period, to have repaid to him any fee paid on the filing of the application.

Procedure  
before  
Central  
Government.

104. In all proceedings under this Act before the Central Government, evidence shall be given by affidavit:

Provided that the Central Government may, if it thinks fit, take oral evidence in lieu of, or in addition to, such evidence by affidavit, and shall for that purpose have all the powers of a civil court referred to in clause (a) of section 97.

Suit for  
infringement,  
etc., to be  
instituted  
before  
District  
Court.

105. No suit—

(a) for the infringement of a registered trade mark; or

(b) relating to any right in a registered trade mark; or

(c) for passing off arising out of the use by the defendant of any trade mark which is identical with or deceptively similar to the plaintiff's trade mark, whether registered or unregistered; shall be instituted in any court inferior to a District Court having jurisdiction to try the suit.

Reliefs in  
suits for  
infringement  
or for  
passing off.

106. (1) The relief which a court may grant in any suit for infringement or for passing off referred to in section 105 includes an injunction (subject to such terms, if any, as the court thinks fit) and at the option of the plaintiff, either damages or an account of profits, together with or without any order for the delivery up of the infringing labels and marks for destruction or erasure.

(2) Notwithstanding anything contained in sub-section (1), the court shall not grant relief by way of damages (other than nominal damages) or an account of profits in any case—

(a) where in a suit for infringement of a trade mark, the infringement complained of is in relation to a certification trade mark; or

(b) where in a suit for infringement the defendant satisfies the court—

(i) that at the time he commenced to use the trade mark complained of in the suit he was unaware and had no reasonable ground for believing that the trade mark of the plaintiff was on the register or that the plaintiff was a registered user using by way of permitted use; and

(ii) that when he became aware of the existence and nature of the plaintiff's right in the trade mark, he



forthwith ceased to use the trade mark in relation to goods in respect of which it was registered; or

(c) where in a suit for passing off the defendant satisfies the court—

(i) that at the time he commenced to use the trade mark complained of in the suit he was unaware and had no reasonable ground for believing that the trade mark of the plaintiff was in use; and

(ii) that when he became aware of the existence and nature of the plaintiff's trade mark, he forthwith ceased to use the trade mark complained of.

107. (1) Where in a suit for infringement of a registered trade mark the validity of the registration of the plaintiff's trade mark is questioned by the defendant or where in any such suit the defendant raises a defence under clause (d) of sub-section (1) of section 30 and the plaintiff questions the validity of the registration of the defendant's trade mark, the issue as to the validity of the registration of the trade mark concerned shall be determined only on an application for the rectification of the register, and notwithstanding anything contained in section 46, sub-section (4) of section 47 or section 56, such application shall be made to the High Court and not to the Registrar.

Application for rectification of register to be made to High Court in certain cases.

(2) Subject to the provisions of sub-section (1), where an application for rectification of the register is made to the Registrar under section 46 or sub-section (4) of section 47 or section 56, the Registrar may, if he thinks fit, refer the application at any stage of the proceedings to the High Court.

108. (1) An application for rectification of the register made to a High Court under section 46, sub-section (4) of section 47 or section 56 shall be in such form and shall contain such particulars as may be prescribed.

Procedure for application for rectification before High Court.

(2) Every such application shall be heard by a single Judge of the High Court:

Provided that any such Judge may, if he thinks fit, refer the application at any stage of the proceedings for decision to a Bench of that High Court.

(3) Where any such application is heard by a single Judge of the High Court, an appeal shall lie from the order made by him on application to a Bench of the High Court.

(4) Subject to the provisions of this Act and the rules made thereunder, the provisions of the Code of Civil Procedure, 1908, shall apply to applications to a High Court under this section.

(5) A certified copy of every order or judgment of the High Court or of the Supreme Court, as the case may be, relating to a registered trade mark under this section shall be communicated to the Registrar by that Court and the Registrar shall give effect to the order of the Court and shall, when so directed, amend the entries in, or rectify, the register in accordance with such order.

#### Appeals.

109. (1) No appeal shall lie from any decision, order or direction made or issued under this Act by the Central Government or from any act or order of the Registrar for the purpose of giving effect to any such decision, order or direction.

(2) Save as otherwise expressly provided in sub-section (1) or in any other provision of this Act, an appeal shall lie to the High Court within the prescribed period from any order or decision of the Registrar under this Act or the rules made thereunder.

(3) Every such appeal shall be preferred by petition in writing and shall be in such form and shall contain such particulars as may be prescribed.

(4) Every such appeal shall be heard by a single Judge of the High Court:

Provided that any such Judge may, if he so thinks fit, refer the appeal at any stage of the proceeding to a Bench of the High Court.

(5) Where an appeal is heard by a single Judge, a further appeal shall lie to a Bench of the High Court.

(6) The High Court in disposing of an appeal under this section shall have the power to make any order which the Registrar could make under this Act.

(7) In an appeal by an applicant for registration against a decision of the Registrar under section 17 or section 18 or section 21, it shall not be open, save with the express permission of the court, to the Registrar or any party opposing the appeal to advance grounds other than those recorded in the said decision or advanced by the party in the proceedings before the Registrar, as the case may be, and where any such additional grounds are advanced, the applicant for registration may, on giving notice in the prescribed manner, withdraw his application without being liable to pay the costs of the Registrar or the parties opposing his application.

5 of 1908.

(8) Subject to the provisions of this Act and of the rules made thereunder, the provisions of the Code of Civil Procedure, 1908, shall apply to appeals before a High Court under this Act.

110. The High Court may make rules consistent with this Act as to the conduct and procedure of all proceedings under this Act before it.

Power of High Courts to make rules.

111. (1) Where in any suit for the infringement of a trade mark—

(a) the defendant pleads that the registration of the plaintiff's trade mark is invalid; or

(b) the defendant raises a defence under clause (d) of sub-section (1) of section 30 and the plaintiff pleads the invalidity of the registration of the defendant's trade mark;

Stay of proceedings where the validity of registration of the trade mark is questioned, etc.

the court trying the suit (hereinafter referred to as the court), shall,—

(i) if any proceedings for rectification of the register in relation to the plaintiff's or defendant's trade mark are pending before the Registrar or the High Court, stay the suit pending the final disposal of such proceedings;

(ii) if no such proceedings are pending and the court is satisfied that the plea regarding the invalidity of the registration of the plaintiff's or defendant's trade mark is *prima facie* tenable, raise an issue regarding the same and adjourn the case for a period of three months from the date of the framing of the issue in order to enable the party concerned to apply to the High Court for rectification of the register.

(2) If the party concerned proves to the court that he has made any such application as is referred to in clause (b) (ii) of sub-section (1) within the time specified therein or within such extended time as the court may for sufficient cause allow, the trial of the suit shall stand stayed until the final disposal of the rectification proceedings.

(3) If no such application as aforesaid has been made within the time so specified or within such extended time as the court may allow, the issue as to the validity of the registration of the trade mark concerned shall be deemed to have been abandoned and the court shall proceed with the suit in regard to the other issues in the case.

(4) The final order made in any rectification proceedings referred to in sub-section (1) or sub-section (2) shall be binding upon the parties and the court shall dispose of the suit conformably to such

order in so far as it relates to the issue as to the validity of the registration of the trade mark.

(5) The stay of a suit for the infringement of a trade mark under this section shall not preclude the court making any interlocutory order (including any order granting an injunction, directing accounts to be kept, appointing a receiver or attaching any property), during the period of the stay of the suit.

Appearance  
of Registrar  
in legal  
proceedings.

112. (1) The Registrar shall have the right to appear and be heard—

(a) in any legal proceedings before a High Court in which the relief sought includes alteration or rectification of the register or in which any question relating to the practice of the Trade Marks Registry is raised;

(b) in any appeal to the High Court from an order of the Registrar on an application for registration of a trade mark—

(i) which is not opposed, and the application is either refused by the Registrar or is accepted by him subject to any amendments, modifications, conditions or limitations, or

(ii) which has been opposed and the Registrar considers that his appearance is necessary in the public interest;

and the Registrar shall appear in any case if so directed by the court.

(2) Unless the High Court otherwise directs, the Registrar may, in lieu of appearing, submit a statement in writing signed by him, giving such particulars as he thinks proper of the proceedings before him relating to the matter in issue, or of the grounds of any decision given by him affecting it, or of the practice of the Trade Marks Registry in like cases, or of other matters relevant to the issues and within his knowledge as Registrar, and such statement shall be evidence in the proceeding.

Costs of  
Registrar  
in proceed-  
ings before  
High Court.

113. In all proceedings under this Act before a High Court the costs of the Registrar shall be in the discretion of the High Court, but the Registrar shall not be ordered to pay the costs of any of the parties.

Registered  
user to be  
impleaded  
in certain  
proceedings.

114. (1) In every proceeding under Chapter VII or under section 109, every registered user of a trade mark using by way of permitted use, who is not himself an applicant in respect of any proceeding under that Chapter or section, shall be made a party to the proceeding.

(2) Notwithstanding anything contained in any other law, a registered user so made a party to the proceeding shall not be liable for any costs unless he enters an appearance and takes part in the proceeding.

115. (1) A copy of any entry in the register or of any document referred to in sub-section (1) of section 125, purporting to be certified by the Registrar and sealed with the seal of the Trade Marks Registry, shall be admitted in evidence in all courts and in all proceedings without further proof or production of the original.

Evidence entries in register, etc. and things done by the Registrar.

(2) A certificate purporting to be under the hand of the Registrar as to any entry, matter or thing that he is authorised by this Act or the rules to make or do shall be *prima facie* evidence of the entry having been made, and of the contents thereof, or of the matter or thing having been done or not done.

116. The Registrar or any other officer of the Trade Marks Registry shall not, in any legal proceedings to which he is not a party, be compellable to produce the register or any other document in his custody, the contents of which can be proved by the production of a certified copy issued under this Act or to appear as a witness to prove the matters therein recorded unless by order of the court made for special cause.

Registrar and other officers not compellable to produce register, etc.

117. (1) The Central Government may, by notification in the Official Gazette, require that goods of any class specified in the notification which are made or produced beyond the limits of India and imported into India, or which are made or produced within the limits of India, shall from such date as may be appointed by the notification not being less than three months from its issue, have applied to them an indication of the country or place in which they were made or produced, or of the name and address of the manufacturer or the person for whom the goods were manufactured.

Power to require goods to show indication of origin.

(2) The notification may specify the manner in which such indication shall be applied, that is to say, whether to the goods themselves or in any other manner, and the times or occasions on which the presence of the indication shall be necessary, that is to say, whether on importation only, or also at the time of sale, whether by wholesale or retail or both.

(3) No notification under this section shall be issued, unless application is made for its issue by persons or associations substantially representing the interests of dealers in, or manufacturers,

producers, or users of, the goods concerned, or unless the Central Government is otherwise convinced that it is necessary in the public interest to issue the notification, with or without such inquiry as the Central Government may consider necessary.

(4) The provisions of section 23 of the General Clauses Act, 1897,<sup>10</sup> of 1897, shall apply to the issue of a notification under this section as they apply to the making of a rule or bye-law the making of which is subject to the condition of previous publication.

(5) A notification under this section shall not apply to goods made or produced beyond the limits of India and imported into India, if in respect of those goods, the Chief Customs Officer is satisfied at the time of importation that they are intended for exportation whether after transshipment in or transit through India or otherwise.

Power to require information in respect of imported goods bearing false trade marks.

118. (1) Where goods, which are prohibited to be imported into India under clause (d), clause (dd), clause (e), clause (f), clause (h), clause (i) or clause (j) of section 18 of the Sea Customs Act, 1878, and are liable to detention and confiscation on importation<sup>8</sup> of 1878, under that Act, are imported into India, the Chief Customs Officer if, upon representation made to him, he has reason to believe that the trade mark complained of is used as a false trade mark, may require the importer of the goods, or his agent, to produce any documents in his possession relating to the goods and to furnish information as to the name and address of the person by whom the goods were consigned to India and the name and address of the person to whom the goods were sent in India.

(2) The importer or his agent shall, within fourteen days, comply with the requirement as aforesaid, and if he fails to do so he shall be punishable with fine which may extend to five hundred rupees.

(3) Any information obtained from the importer of the goods or his agent under this section may be communicated by the Chief Customs Officer to the registered proprietor or registered user of the trade mark which is alleged to have been used as a false trade mark.

Certificate of validity.

119. If in any legal proceeding for rectification of the register before a High Court a decision is on contest given in favour of the registered proprietor of the trade mark on the issue as to the validity of the registration of the trade mark, the High Court may grant a certificate to that effect, and if such a certificate is granted, then in any subsequent legal proceeding in which the said validity comes into question the said proprietor on obtaining a final order or

Judgment in his favour affirming the validity of the registration of the trade mark shall, unless the said final order or judgment for sufficient reason directs otherwise, be entitled to his full costs, charges and expenses as between legal practitioner and client.

120. (1) Where a person, by means of circulars, advertisements or otherwise, threatens a person with an action or proceeding for infringement of a trade mark which is registered, or alleged by the first-mentioned person to be registered, or with some other like proceeding, a person aggrieved may, whether the person making the threats is or is not the registered proprietor or the registered user of the trade mark, bring a suit against the first-mentioned person and may obtain a declaration to the effect that the threats are unjustifiable, and an injunction against the continuance of the threats, and may recover such damages (if any) as he has sustained, unless the first-mentioned person satisfies the court that the trade mark is registered and that the acts in respect of which the proceedings were threatened constitute, or, if done, would constitute, an infringement of the trade mark.

Groundless threats of legal proceedings.

(2) The last preceding sub-section does not apply if the registered proprietor of the trade mark, or a registered user acting in pursuance of sub-section (1) of section 51, with due diligence commences and prosecutes an action against the person threatened for infringement of the trade mark.

(3) Nothing in this section shall render a legal practitioner or a registered trade marks agent liable to an action under this section in respect of an act done by him in his professional capacity on behalf of a client.

(4) A suit under sub-section (1) shall not be instituted in any court inferior to a District Court.

121. An address for service stated in an application or notice of opposition shall, for the purposes of the application or notice of opposition, be deemed to be the address of the applicant or opponent, as the case may be, and all documents in relation to the application or notice of opposition may be served by leaving them at or sending them by post to the address for service of the applicant or opponent, as the case may be.

Address for service.

122. In any suit or other proceeding relating to a trade mark, the tribunal shall admit evidence of the usages of the trade concerned and of any relevant trade mark or trade name or get up legitimately used by other persons.

Trade usage, etc., to be taken into consideration.

Agents.

123. Where, by or under this Act, any act, other than the making of an affidavit, is required to be done before the Registrar by any person, the act may, subject to the rules made in this behalf, be done, instead of by that person himself, by a person duly authorised in the prescribed manner, who is—

(a) a legal practitioner, or

(b) a person registered in the prescribed manner as a trade marks agent, or

(c) a person in the sole and regular employment of the principal.

Indexes.

124. There shall be kept under the direction and supervision of the Registrar,—

(a) an index of registered trade marks,

(b) an index of trade marks in respect of which applications for registration are pending,

(c) an index of the names of the proprietors of registered trade marks, and

(d) an index of the names of registered users.

Documents open to public inspection.

125. (1) Save as otherwise provided in sub-section (5) of section 49,—

(a) the register, and any document upon which any entry in the register is based;

(b) every notice of opposition to the registration of a trade mark, application for rectification before the Registrar, counter-statement thereto, and any affidavit or document filed by the parties in any proceedings before the Registrar;

(c) all regulations deposited under section 65, and all applications under section 69 for varying such regulations;

(d) the indexes mentioned in section 124; and

(e) such other documents as the Central Government may, by notification in the Official Gazette, specify;

shall, subject to such conditions as may be prescribed, be open to public inspection at the Trade Marks Registry.

(2) Any person may, on application to the Registrar and on payment of such fees as may be prescribed, obtain a certified copy of any entry in the register or any document referred to in sub-section (1).



126. The Central Government shall cause to be placed before both Houses of Parliament once a year a report respecting the execution by or under the Registrar of this Act.

Reports of Registrar to be placed before Parliament.

127. (1) There shall be paid in respect of applications and registration and other matters under this Act such fees as may be prescribed by the Central Government.

Fees.

(2) Where a fee is payable in respect of the doing of an act by the Registrar, the Registrar shall not do that act until the fee has been paid.

(3) Where a fee is payable in respect of the filing of a document at the Trade Marks Registry, the document shall be deemed not to have been filed at the Registry until the fee has been paid.

128. Nothing in Chapter X shall—

Savings in respect of certain matters in Chapter X.

(a) exempt any person from any suit or other proceeding which might, but for anything in that Chapter, be brought against him,

(b) entitle any person to refuse to make a complete discovery, or to answer any question or interrogatory in any suit or other proceeding, but such discovery or answer shall not be admissible in evidence against such person in any such prosecution for an offence under Chapter X or against clause (d), clause (dd), clause (e), clause (f), clause (h), clause (i) or clause (j) of section 18 of the Sea Customs Act, 1878, or

(c) be construed so as to render liable to any prosecution or punishment any servant of a master resident in India who in good faith acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master and as to the instructions which he has received from his master.

129. Notwithstanding anything contained in the Indian Registration Act, 1908, no document declaring or purporting to declare the ownership or title of a person to a trade mark other than a registered trade mark shall be registered under that Act.

Declaration as to ownership of trade mark not registrable under the Indian Registration Act, 1908.

130. The provisions of this Act shall be binding on the Government.

Government to be bound.

131. (1) With a view to the fulfilment of a treaty, convention or arrangement, with any country outside India which affords to citizens of India similar privileges as granted to its own citizens, the Central Government may, by notification in the Official Gazette, declare such country to be a convention country for the purposes of this Act.

Special provisions relating to applications for registration from citizens of convention countries.

8 of 1878.

16 of 1908.

(2) Where a person has made an application for the registration of a trade mark in a convention country and that person, or his legal representative or assignee, makes an application for the registration of the trade mark in India within six months after the date on which the application was made in the convention country, the trade mark shall, if registered under this Act, be registered as of the date on which the application was made in the convention country and that date shall be deemed for the purposes of this Act to be the date of registration.

(3) Where applications have been made for the registration of a trade mark in two or more convention countries, the period of six months referred to in the last preceding sub-section shall be reckoned from the date on which the earlier or earliest of those applications was made.

Provision as to reciprocity

132. Where any country specified by the Central Government in this behalf by notification in the Official Gazette does not accord to citizens of India the same rights in respect of the registration and protection of trade marks as it accords to its own nationals, no national of such country shall be entitled, either solely or jointly with any other person—

(a) to apply for the registration of, or be registered as the proprietor of, a trade mark in Part A or Part B of the register,

(b) to be registered as the assignee of the proprietor of a registered trade mark, or

(c) to apply for registration or be registered as a registered user of a trade mark under section 49.

Power of Central Government to make rules.

133. (1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

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

(a) the classification of goods for the purpose of the registration of trade marks, and the empowering of the Registrar to amend the register so far as may be necessary for the purpose of adapting the entries therein to any amended or substituted classification;

(b) the making of duplicates of trade marks and other documents connected therewith;

(c) the securing and regulating the publication, sale or distribution of copies of trade marks and other documents connected therewith;

(d) the additional matters to be entered in the register;

(e) the conditions and restrictions subject to which the register, the Refused Textile Marks List and other documents may be inspected;

(f) the form of certificates of registration;

(g) the further documents, information or evidence which should accompany an application under sub-section (1) of section 49;

(h) the prescribing of classes of goods as textile goods for the purposes of section 71;

(i) the awarding of costs by the Registrar under section 97;

(j) the conditions subject to which a person may be registered as a trade marks agent, and the conditions subject to which an agent referred to in section 123 may act;

(k) the fees to be paid under this Act;

(l) the establishment of offices of the Trade Marks Registry for facilitating the working of this Act, the territorial jurisdiction of each office of the Trade Marks Registry and the preparation of the copies of the register to be kept at such offices;

(m) the transfer of applications and proceedings pending at the commencement of this Act in any office of the Registry to the appropriate office of the Registry;

(n) the manner in which, in proceedings under this Act before the Central Government or the Registrar, applications shall be made, notices given and matters advertised;

(o) the times or periods required by this Act to be prescribed;

(p) the regulation generally of the business of the Trade Marks Registry and of the offices established under clause (l) and the regulation of all things by this Act placed under the direction or control of the Central Government or the Registrar;

(q) the number of samples to be selected and tested and for the selection of the samples for the purposes of section 75;

(r) the manner in which cotton yarn and cotton thread shall be marked with the particulars required by section 74, and the exemption of certain premises from the provisions of that section;

(s) the classes of goods included in the expression "piece-goods, such as are ordinarily sold by length or by the piece"

for the purposes of section 74, and clause (f) of section 18 of the Sea Customs Act, 1878;

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(t) any other matter which is required to be or may be prescribed.

Rules to be placed before Parliament.

134. All rules made under this Act shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made and shall be subject to such modifications as Parliament may make in the session in which they are so laid or the session immediately following.

Amendments.

135. The enactments specified in the Schedule shall be amended in the manner specified therein.

Repeals and savings

136. (1) The Indian Merchandise Marks Act, 1889, and the Trade Marks Act, 1940, are hereby repealed. 4 of 188 5 of 194

(2) Without prejudice to the provisions contained in the General Clauses Act, 1897, with respect to repeals, any notification, rule, order, requirement, registration, certificate, notice, decision, determination, direction, approval, authorisation, consent, application, request or thing made, issued, given or done under the Trade Marks Act, 1940, shall, if in force at the commencement of this Act continue in force and have effect as if made, issued, given or done under the corresponding provision of this Act. 10 of 18 5 of 194

(3) The provisions of this Act shall apply to any application for registration of a trade mark pending at the commencement of this Act and to any proceedings consequent thereon and to any registration granted in pursuance thereof.

(4) Notwithstanding anything contained in this Act, any legal proceeding pending in any court at the commencement of this Act may be continued in that court as if this Act had not been passed.

## THE SCHEDULE

### AMENDMENTS

(See section 135)

Year	No.	Short title	Amendment
1860	45	The Indian Penal Code	(i) In the heading to Chapter XVIII, the words "TRADE OR" shall be omitted; (ii) in the heading above section 478 the word "trade," shall be omitted; (iii) sections 468, and 480 shall be omitted;

Year	No.	Short title	Amendment—
			<p>(iv) in section 482, the words "any false trade mark or" shall be omitted;</p> <p>(v) in section 483, the words "trade mark or" shall be omitted;</p> <p>(vi) for section 485, the following section shall be substituted namely:—                      Making or possession of any instrument for counterfeiting a property mark. "485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a property mark, or has in his possession a property mark for the purpose of denoting that any goods belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.";</p> <p>(vii) in section 486, for the words "Whoever sells, or exposes, or has in possession for sale or any purpose of trade or manufacture any goods or things with a counterfeit trade mark or property mark", the words "Whoever sells, or exposes, or has in possession for sale, any goods or things with a counterfeit property mark" shall be substituted.</p>
1877	1	The Specific Relief Act, 1877.	In section 54, the <i>Explanation</i> and <i>Illustration</i> (w) shall be omitted.
1878	8	The Sea Customs Act, 1878.	<p>In section 18, —</p> <p>(i) for clause (d), the following clauses shall be substituted, namely:—</p> <p>"(d) goods having applied thereto a false trade mark within the meaning of section 77 of the Trade and Merchandise Marks Act, 1958;</p> <p>(dd) goods having applied thereto a false trade description within the meaning of clause (f) of sub-section (1) of section 2 of the Trade and Merchandise Marks Act, 1958, otherwise than in relation to any of the matters specified in sub-clauses (ii) and (iii) of clause (u) of that sub-section;"</p>

Year	No.	Short title	Amendment
1898	5	The Code of Criminal Procedure, 1898.	<p>(ii) in Clause (j), in sub-clause (ii), for the words "standard yards", the words "standard yards or in standard metres" shall be substituted;</p> <p>(iii) for clause (h), the following clause shall be substituted, namely:—</p> <p>"(h) goods which are required by a notification under section 117 of the Trade and Merchandise Marks Act, 1958, to have applied to them an indication of the country or place in which they were made or produced or the name and address of the manufacturer or the person for whom the goods were manufactured, unless such goods show such indication applied in the manner specified in the notification";</p> <p>(iv) in clause (i), in sub-clause (w), for the words and figures "under section 20 of the Indian Merchandise Marks Act, 1889", the words and figures "under section 75 of the Trade and Merchandise Marks Act, 1958" shall be substituted; 4 of 1889.</p> <p>(v) in clause (j), in sub-clause (ii), for the words and figures "under section 20 of the Indian Merchandise Marks Act, 1889", the words and figures "under section 75 of the Trade and Merchandise Marks Act, 1958" shall be substituted. 4 of 1889.</p> <p>In Schedule II,—</p> <p>(i) in the heading to Chapter XVIII, the words "TRADE OR" shall be omitted;</p> <p>(ii) in the heading above section 482, the words "trade and" shall be omitted;</p> <p>(iii) in the second column of the entry relating to section 482, the words "trade or" shall be omitted;</p> <p>(iv) in the second column of the entry relating to section 483, the words "trade or" shall be omitted;</p>

Not Corrected: See India Code

of 1958]

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Year	No.	Short title	Amendment
			<p>(v) in the second column of the entry relating to section 485, the words "or trade" shall be omitted;</p> <p>(vi) in the second column of the entry relating to section 485, the words "or trade" shall be omitted.</p>

Not Corrected: See India Code Vol. VII-A, Pt. I, p. 385

# THE MERCHANT SHIPPING ACT, 1958

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## THE MERCHANT SHIPPING ACT, 1958

No. 44 OF 1958

[30th October, 1958]

An Act to foster the development and ensure the efficient maintenance of an Indian mercantile marine in a manner best suited to serve the national interests and for that purpose to establish a National Shipping Board and a Shipping Development Fund, to provide for the registration of Indian ships and generally to amend and consolidate the law relating to merchant shipping.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

### PART I

#### PRELIMINARY

1. (1) This Act may be called the Merchant Shipping Act, 1958. 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. (1) Unless otherwise expressly provided, the provisions of this Act which apply to ships which are registered in India or which in terms of this Act are required to be so registered shall so apply wherever the ships may be. Application of Act.  
(2) Unless otherwise expressly provided, the provisions of this Act which apply to ships other than those referred to in sub-section (1) shall so apply only while any such ship is within India, including the territorial waters thereof.

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

Definitions.

- (1) "coasting ship" means a ship exclusively employed in trading between any port or place in India and any other port or place on the continent of India or between ports or places in India and ports or places in Ceylon or Burma;
- (2) "coasting trade of India" means the carriage by sea of passengers or goods from any port or place in India to any other port or place on the continent of India;

(3) "collision regulations" means the regulations made under section 285 for the prevention of collisions at sea;

(4) "company" means a company as defined in section 3 of the Companies Act, 1956;

I of 1956.

(5) "country to which the Load Line Convention applies" means,—

(a) a country the Government of which has been declared or is deemed to have been declared under section 283 to have accepted the Load Line Convention and has not been so declared to have denounced that Convention;

(b) a country to which it has been so declared that the Load Line Convention has been applied under the provisions of article twenty-one thereof, not being a country to which it has been so declared that that Convention has ceased to apply under the provisions of that article;

(6) "country to which the Safety Convention applies" means,—

(a) a country the Government of which has been declared under section 283 to have accepted the Safety Convention and has not been so declared to have denounced that Convention;

(b) a territory to which it has been so declared that the Safety Convention extends, not being a territory to which it has been so declared that that Convention has ceased to extend;

(7) "court" in relation to sections 178 to 183 (inclusive) means a civil or revenue court;

(8) "Director-General" means the Director-General of Shipping appointed under section 7;

(9) "distressed seaman" means a seaman engaged under this Act who, by reason of having been discharged or left behind from, or shipwrecked in, any ship at a place outside India, is in distress at that place;

(10) "effects", in relation to a seaman, includes cloths and documents;

(11) "equipment", in relation to a ship, includes boats, tackle, pumps, apparel, furniture, life saving appliances of every description, spars, masts, rigging and sails, fog signals, lights, shapes and signals of distress, medicines and medical and surgical stores and appliances, charts, radio installations, appliances for preventing, detecting or extinguishing fires, buckets, compasses, axes, lanterns, loading and discharging gears and appliances of all kinds and all other stores or articles belonging to or to be used in connection with or necessary for the navigation and safety of the ship;

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

(13) "foreign-going ship" means a ship, not being a home-trade ship, employed in trading between any port or place in India and any other port or place or between ports or places, outside India;

(14) "free board" means—

(a) in relation to a decked vessel, the distance above the waterline measured vertically at the side of the vessel amidships from the position of the upper edge of the uppermost complete deck; and

(b) in the case of any other vessel, the distance above the waterline measured vertically at the side of the vessel amidships from the upper edge of the permanent bulwark of the vessel;

(15) "High Court", in relation to a vessel, means the High Court within the limits of whose appellate jurisdiction—

(a) the port of registry of the vessel is situate; or

(b) the vessel is for the time being; or

(c) the cause of action wholly or in part arises;

(16) "home-trade ship" means a ship not exceeding three thousand tons gross which is employed in trading between any port or place in India and any other port or place on the continent of India or between ports or places in India and ports or places in Ceylon, Maladive Islands, Federation of Malaya, Singapore or Burma;

(17) "Indian consular officer" means the consul-general, consul, vice-consul, consular agent and proconsul appointed as

such by the Central Government, and includes any person authorised by the Central Government to perform the functions of consul-general, consul, vice-consul, consular agent or pro-consul;

(18) "Indian ship" means a ship registered as such under this Act and includes any ship registered at any port in India at the commencement of this Act which is recognised as an Indian ship under the proviso to sub-section (2) of section 22;

(19) "load line certificate" means the certificate issued under section 316 or section 321;

(20) "Load Line Convention" means the Convention signed in London on the 5th day of July, 1930, for promoting safety of life and property at sea, as amended from time to time;

(21) "Marine Board" means a Board of Marine Inquiry convened under section 373;

(22) "master" includes any person (except a pilot or harbour master) having command or charge of a ship;

(23) "owner" means—

(a) in relation to a ship, the person to whom the ship or a share in the ship belongs;

(b) in relation to a sailing vessel, the person to whom the sailing vessel belongs;

(24) "passenger" means any person carried on board a ship except—

(a) a person employed or engaged in any capacity on board the ship on the business of the ship;

(b) a person on board the ship either in pursuance of the obligations laid upon the master to carry shipwrecked, distressed or other persons or by reason of any circumstances which neither the master nor the charterer, if any, could have prevented or forestalled;

(c) a child under one year of age;

(25) "passenger ship" means a ship carrying more than twelve passengers;

(26) "pilgrim" means a person making a pilgrimage and, in the case of a passenger on board a pilgrim ship, includes every



person accompanying or travelling with the person making the pilgrimage;

(27) "pilgrimage" means pilgrimage to any holy place in the Hedjaz;

(28) "pilgrim ship" means a ship which makes a voyage to or from the Hedjaz during the season of the pilgrimage and which carries pilgrims in a proportion of not less than one pilgrim for every one hundred tons of the gross tonnage of the ship;

(29) "port of registry", in relation to a ship or a sailing vessel, means the port at which she is registered or is to be registered;

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

(31) "proceeding" in relation to sections 178 to 183 (inclusive) includes any suit, appeal or application;

(32) "proper officer" means the officer designated by the Central Government to be the proper officer at the port or place and in respect of the matter to which reference is made in the provision of this Act in which the expression occurs;

(33) "proper return port", in relation to a master, seaman or apprentice discharged or left behind, means the port at which the master, seaman or apprentice was engaged, or the port agreed to as such by the master, seaman or apprentice, as the case may be;

(34) "radio inspector" means a person appointed as such under section 10;

(35) "registrar" means the registrar referred to in section 24;

(36) (a) "repatriation expenses" means expenses incurred in returning a distressed seaman to a proper return port and in providing him with necessary clothing and maintenance until his arrival at such port, and includes in the case of a shipwrecked seaman the repayment of expenses incurred in conveying him to port after shipwreck and maintaining him while being so conveyed; and

(b) "excepted expenses", in relation to repatriation expenses, means repatriation expenses incurred in cases where the cause of the seaman being left behind is desertion or absence without leave or imprisonment for misconduct, or discharge from his ship by a Marine Board on the ground of misconduct;

(37) "Safety Convention" means the Convention for the Safety of Life at Sea signed in London on the 10th day of June, 1948, as amended from time to time;

(38) "safety convention certificate" means a safety certificate, a qualified safety certificate, a safety equipment certificate, a qualified safety equipment certificate, a safety radio telegraphy certificate, a safety radio telephony certificate or an exemption certificate issued under Part IX;

(39) "sailing vessel" means any description of vessel provided with sufficient sail area for navigation under sails alone, whether or not fitted with mechanical means of propulsion, and includes a rowing boat or canoe but does not include a pleasure craft;

(40) "salvage" includes all expenses properly incurred by the salvor in the performance of salvage services;

(41) "sea-going", in relation to a vessel, means a vessel proceeding to sea beyond inland waters or beyond waters declared to be smooth or partially smooth waters by the Central Government by notification in the Official Gazette;

(42) "seaman" means every person (except a master, pilot or apprentice) employed or engaged as a member of the crew of a ship under this Act, but in relation to sections 178 to 183 (inclusive) includes a master;

(43) "seamen's employment office" means the seamen's employment office referred to in section 12;

(44) "seamen's welfare officer" means the seamen's welfare officer referred to in section 13;

(45) "ship" does not include a sailing vessel;

(46) "shipping master" means the shipping master referred to in section 11; but in relation to any seaman for the purposes of sections 178 to 183 (inclusive) means a shipping master appointed,—

(i) for the port at which the seaman entered into, or is believed to have entered into, an agreement, or

(ii) where the seaman did not enter into his agreement in India, for the port to which the seaman has returned, or is expected to return, on the completion of his latest voyage;

(47) "shipping office" means the shipping office referred to in section 11;

(48) "surveyor" means the surveyor referred to in section 9;

(49) "tidal water" means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides and not being a harbour;

(50) "tindal" means the person in command or charge of a sailing vessel;

(51) "unberthed passenger" means a passenger of the age of twelve years or upwards for whom no separate accommodation in any cabin, state room or saloon is reserved, and in the computation of passengers for any of the purposes of Part VIII, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one unberthed passenger;

(52) "unberthed passenger ship" means a ship carrying more than thirty unberthed passengers;

(53) "valid international load line certificate" means a certificate purporting to have been issued in accordance with the Load Line Convention in respect of a ship, other than an Indian ship, by the Government of the country in which the ship is registered;

(54) "valid safety convention certificate" means a certificate purporting to have been issued in accordance with the Safety Convention in respect of a ship, other than an Indian ship, by the Government of the country in which the ship is registered;

(55) "vessel" includes any ship, boat, sailing vessel, or other description of vessel used in navigation;

(56) "voyage" for the purposes of Part VIII, means the whole distance between the ship's port or place of departure and her final port or place of arrival;

(57) "wages" includes emoluments;

(58) "wreck" includes the following when found in the sea or in tidal water or on the shores thereof—

(a) goods which have been cast into the sea and then sink and remain under water;

(b) goods which have been cast or fall into the sea and remain floating on the surface;

- (c) goods which are sunk in the sea, but are attached to a floating object in order that they may be found again;
- (d) goods which are thrown away or abandoned; and
- (e) a vessel abandoned without hope or intention of recovery;

(59) "young person" means a person under eighteen years of age.

## PART II

### NATIONAL SHIPPING BOARD

Establishment of National Shipping Board.

4. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be established a Board to be called the National Shipping Board (hereinafter in this Part referred to as the Board).

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

(a) six members elected by Parliament, four by the House of the People from among its members and the other two by the Council of States from among its members;

(b) such number of other members, not exceeding sixteen as the Central Government may think fit to appoint to the Board, to represent—

(i) the Central Government,

(ii) shipowners,

(iii) seamen, and

(iv) such other interests as, in the opinion of the Central Government, ought to be represented on the Board:

Provided that the Board shall include an equal number of persons representing the shipowners and seamen.

(3) The Central Government shall nominate one of the members of the Board to be the Chairman of the Board.

(4) The Board shall have power to regulate its own procedure.

5. The Board shall advise the Central Government—

(a) on matters relating to Indian shipping, including the development thereof; and

(b) on such other matters arising out of this Act as the Central Government may refer to it for advice.

Functions of National Shipping Board.

6. (1) The Central Government may make rules to carry out the purposes of this Part.

Power to make rules in respect of matters in this Part.

(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 members of the Board and the manner of filling casual vacancies in the Board;

(b) the appointment of officers and other employees to enable the Board to discharge its functions under section 5 and the terms and conditions of their service;

(c) the travelling and other allowances payable to members of the Board.

### PART III

#### GENERAL ADMINISTRATION

7. (1) The Central Government may, by notification in the Official Gazette, appoint a person to be the Director-General of Shipping for the purpose of exercising or discharging the powers, authority or duties conferred or imposed upon the Director-General by or under this Act.

(2) The Central Government may, by general or special order, direct that any power, authority or jurisdiction exercisable by it under or in relation to any such provisions of this Act as may be specified in the order shall, subject to such conditions and restrictions as may be so specified, be exercisable also by the Director-General or by such other officer as may be specified in the order.

(3) The Director-General may, by general or special order, and with the previous approval of the Central Government, direct that any power or authority conferred upon or delegated to, and any duty imposed upon, the Director-General by or under this Act may, subject to such conditions and restrictions as he may think fit to impose, be exercised or discharged also by such officer or other authority as he may specify in this behalf.

8. (1) The Central Government may establish and maintain at each of the ports of Bombay, Calcutta and Madras and at such other port in India as it may consider necessary an office of the Mercantile Marine Department for the administration of this Act and the rules and regulations thereunder.

(2) The office of the Mercantile Marine Department at the port of Bombay, Calcutta or Madras shall be in the charge of a principal

officer, and the office at any other port shall be in the charge of such officer as the Central Government may appoint in this behalf.

(3) In the discharge of their duties, the principal officer and other officers shall be subject to the control of the Director-General.

## Surveyors.

9. (1) The Central Government may, by notification in the Official Gazette, appoint at such ports as it may consider necessary as many persons as it may think fit to be surveyors for the purposes of this Act.

(2) The surveyors may be nautical surveyors, ship surveyors or engineer and ship surveyors.

(3) At any port at which no surveyor appointed under this section is available, the Central Government may, by notification in the Official Gazette, appoint any qualified person to perform the functions of a surveyor under this Act.

(4) All acts done under this Act by a principal officer of the Mercantile Marine Department or a person appointed under sub-section (3) relating to matters within the competence of a surveyor shall have the same effect as if done by a surveyor for the purposes of this Act.

## Radio inspectors.

10. The Central Government may, by notification in the Official Gazette, appoint as many radio inspectors as it may consider necessary for the purpose of securing that the requirements of this Act and the rules and regulations thereunder relating to radio telegraphy, radio telephony and direction finders are complied with.

## Shipping offices.

11. (1) The Central Government may, by notification in the Official Gazette, establish a shipping office at every port in India in which it thinks it necessary so to do, and shall appoint thereto a shipping master and as many deputy shipping masters and assistant shipping masters as it may consider necessary.

(2) Shipping masters, deputy shipping masters and assistant shipping masters shall exercise their powers and discharge their duties subject to the general control of the Central Government or of any intermediate authority which the Central Government may specify in this behalf.

(3) The Central Government may direct that at any port at which no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the custom house or at the office of the port officer or at such other office as the Central Government may specify, and thereupon the same shall be conducted accordingly.

(4) All acts done by or before a deputy shipping master, an assistant shipping master and the officer to whom any business of the shipping office is committed under sub-section (3) shall have the same effect as if done by or before a shipping master for the purposes of this Act.

12. (1) The Central Government may, by notification in the Official Gazette, establish at every port in India in which it thinks it necessary so to do, a seamen's employment office and shall appoint thereto a director and as many deputy directors and assistant directors as it may consider necessary.

(2) The directors, deputy directors and assistant directors shall exercise their powers and discharge their duties subject to the general control of the Central Government or of any intermediate authority which the Central Government may specify in this behalf.

(3) All acts done by or before a deputy or assistant director shall have the same effect as if done by or before a director for the purposes of this Act.

(4) The Central Government may, by notification in the Official Gazette, direct that at any port at which no separate seamen's employment office is established, the functions of the seamen's employment office in that port shall be discharged by such person or body of persons as it may specify in the notification, and thereupon the office of the person or body of persons so specified shall be deemed to be the seamen's employment office established at that port for the purposes of this Act.

13. (1) The Central Government may appoint seamen's welfare officers at such ports in or outside India as it may consider necessary.

(2) A seamen's welfare officer appointed under sub-section (1) shall perform—

(a) in the case of any such officer appointed at any port in India, such functions in relation to welfare of seamen as may be assigned to him by the Central Government;

(b) in the case of any such officer appointed at any port outside India, such functions in relation to welfare of seamen and such functions of an Indian consular officer under Part VII as may be assigned to him by the Central Government.

(3) If any seamen's welfare officer appointed at any port outside India performs any functions assigned to an Indian consular officer under Part VII, such functions shall have the same effect as if they had been performed by an Indian consular officer for the purposes of that Part.

## PART IV

## SHIPPING DEVELOPMENT FUND

Formation  
of Shipping  
Development  
Fund.

14. There shall be formed a fund to be called the Shipping Development Fund (hereinafter in this Part referred to as the Fund) and there shall be credited thereto—

(a) the amount of such grants as the Central Government may make for being credited to the Fund;

(b) the amount of any loans advanced by the Central Government to the Committee constituted under section 15 for carrying out the objects of the Fund;

(c) such sums of money as may, from time to time, be realised out of repayment of loans made from the Fund or from interest on loans or dividends from investments made from the Fund;

(d) such other sums as may be received for being credited to the Fund.

Shipping  
Development  
Fund  
Committee.

15. (1) The Central Government shall constitute a committee to be called the Shipping Development Fund Committee (hereinafter in this Part referred to as the Committee) consisting of a chairman and such number of other members, not exceeding six, as the Central Government may think fit to appoint thereto.

(2) The Committee so constituted shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property and may by that name sue and be sued.

(3) The Committee shall have power to regulate its own procedure.

Application  
of the  
Shipping  
Development  
Fund.

16. (1) The Fund shall vest in the Committee and shall be applied towards meeting the expenses of the Committee and for granting loans and financial assistance in any other form to persons of the description mentioned in section 21 for acquisition and maintenance of ships.

(2) The Committee shall not grant any loan or give any financial assistance to any person referred to in sub-section (1) except on such terms and conditions as the Central Government may from time to time specify.

(3) The Committee shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as the Central Government may, in consultation with the Comptroller and Auditor-General of India, prescribe.

(4) The accounts of the Committee shall be audited by the Comptroller and Auditor-General of India or a person authoris-



ed by him in this behalf at such intervals as the Comptroller and Auditor-General of India may specify and any expenditure incurred in connection with such audit shall be payable by the Committee.

(5) The Comptroller and Auditor-General of India and any person authorised by him in connection with the audit of the accounts of the Committee 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 any office of the Committee.

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

17. No act done or proceeding taken by the Committee shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Committee.

Acts and proceedings of Committee not to be invalid.

18. The Central Government may, by notification in the Official Gazette, declare that, with effect from such date as may be specified in the notification, the Committee shall be dissolved, and thereupon all the property vested in the Committee shall vest in the Central Government.

Dissolution of the Committee.

19. (1) The Central Government may make rules to carry out the purposes of this Part.

Power to make rules in respect to matters in this Part.

(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 members of the Committee and the manner of filling casual vacancies in the Committee;

(b) powers of the Chairman of the Committee;

(c) the travelling and other allowances payable to members of the Committee;

(d) the appointment of officers and other employees of the Committee and the terms and conditions of their service;

(e) the custody and investment of the Fund;

(f) the execution of instruments and the mode of entering into contracts, by or on behalf of the Committee and the proof of documents purporting to be executed, issued or signed by or on behalf of the Committee;

(g) any other matter which may be or is to be prescribed.

## PART V

## REGISTRATION OF INDIAN SHIPS

Application of Part.

20. This Part applies only to sea-going ships fitted with mechanical means of propulsion.

Indian ships.

21. For the purposes of this Act, a ship shall not be deemed to be an Indian ship unless owned wholly by persons to each of whom either of the following descriptions applies:—

(a) a citizen of India; or

(b) a company which satisfies the following requirements, namely:—

(i) the principal place of business of the company is in India;

(ii) at least seventy-five per cent. of the share capital of the company is held by citizens of India:

Provided that the Central Government may, by notification in the Official Gazette, alter such minimum percentage, and where the minimum percentage is so altered, the altered percentage shall, as from the date of the notification, be deemed to be substituted for the percentage specified in this sub-clause;

(iii) not less than three-fourths of the total number of directors of the company are citizens of India;

(iv) the chairman of the board of directors and the managing director, if any, of the company are citizens of India;

(v) the managing agents, if any, of the company are citizens of India or in any case where a company is the managing agent, the company satisfies the requirements specified in sub-clauses (i), (ii), (iii) and (iv).

Obligation to register

22. (1) Every Indian ship, unless it is a ship which does not exceed fifteen tons net and is employed solely in navigation on the coasts of India, shall be registered under this Act.

(2) No ship required by sub-section (1) to be registered shall be recognised as an Indian ship unless she has been registered under this Act:

Provided that any ship registered at the commencement of this Act at any port in India under any enactment repealed by this Act, shall be deemed to have been registered under this Act and shall be recognised as an Indian ship.

(3) A ship required by this Act to be registered may be detained until the master of the ship, if so required, produces a certificate of registry in respect of the ship.

*Procedure for registration*

23. (1) The ports at which registration of ships shall be made shall be the ports of Bombay, Calcutta and Madras and such other ports in India as the Central Government may, by notification in the Official Gazette, declare to be ports of registry under this Act.

(2) The port at which an Indian ship is registered for the time being under this Act shall be deemed to be her port of registry and the port to which she belongs.

24. At each of the ports of Bombay, Calcutta and Madras, the principal officer of the Mercantile Marine Department, and at any other port such authority as the Central Government may, by notification in the Official Gazette, appoint, shall be the registrar of Indian ships at that port.

25. Every registrar shall keep a book to be called the register book and entries in that book shall be made in accordance with the following provisions:—

(a) the property in a ship shall be divided into ten shares;

(b) subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than ten individuals shall be entitled to be registered at the same time as owners of any one ship; but this rule shall not affect the beneficial interest of any number of persons represented by or claiming under or through any registered owner or joint owner;

(c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship; but any number of persons not exceeding five may be registered as joint owners of a ship or of any share or shares therein;

(d) joint owners shall be considered as constituting one person and shall not be entitled to dispose in severalty of any interest in a ship or any share therein in respect of which they are registered;

(e) a company may be registered as owner by its name.

26. An application for the registry of an Indian ship shall be made—

(a) in the case of an individual, by the person requiring to be registered as owner or by his agent;

(b) in the case of more than one individual requiring to be so registered, by some one or more of the persons so requiring or by his or their agent; and

(c) in the case of a company requiring to be so registered, by its agent;

and the authority of the agent shall be testified by writing, if appointed by an individual, under the hand of the person appointing him and, if appointed by a company, under its common seal.

Survey and measurement of ships before registry.

27. (1) The owner of every Indian ship in respect of which an application for registry is made shall cause such ship to be surveyed by a surveyor and the tonnage of the ship ascertained in the prescribed manner.

(2) The surveyor shall grant a certificate specifying the ship's tonnage and build and such other particulars descriptive of the identity of the ship as may be prescribed and the certificate of the surveyor shall be delivered to the registrar before registry.

Marking of ship.

28. (1) The owner of an Indian ship who applies for registry under this Act shall, before registry, cause her to be marked permanently and conspicuously in the prescribed manner and to the satisfaction of the registrar and any ship not so marked may be detained by the registrar.

(2) Subject to any other provision contained in this Act and to the provisions of any rules made thereunder, the owner and the master of an Indian ship shall take all reasonable steps to ensure that the ship remains marked as required by this section, and the said owner or master shall not cause or permit any alterations of such marks to be made except in the event of any of the particulars thereby denoted being altered in the manner provided in this Act or except to evade capture by the enemy or by a foreign ship of war in the exercise of some belligerent right.

Declaration of ownership on registry.

29. A person shall not be registered as the owner of an Indian ship or of a share therein until he or, in the case of a company, the person authorised by this Act to make declarations on its behalf has made and signed a declaration of ownership in the prescribed form referring to the ship as described in the certificate of the surveyor and containing the following particulars:—

(a) a statement whether he is or is not a citizen of India; or in the case of a company, whether the company satisfies the requirements specified in clause (b) of section 21;

(b) a statement of the time when and the place where the ship was built or if the ship is built outside India and the time and place of building is not known, a statement to that effect; and in addition, in the case of a ship previously registered outside India, a statement of the name by which she was so registered;

- (c) the name of her master;
- (d) the number of shares in the ship in respect of which he or the company, as the case may be, claims to be registered as owner; and
- (e) a declaration that the particulars stated are true to the best of his knowledge and belief.

*Explanation.*—In respect of a ship or share owned by more than one person, a declaration may be made by such one of them as may be authorised by them.

30. On the first registry of an Indian ship, the following evidence shall be produced in addition to the declaration of ownership:— Evidence on first registry

(a) in the case of a ship built in India, a builder's certificate, that is to say, a certificate signed by the builder of the ship and containing a true account of the proper denomination and the tonnage of the ship as estimated by him and the time when and the place where she was built, and the name of the person, if any, on whose account the ship was built; and if there has been any sale, the instrument of sale under which the ship or the share therein has become vested in the applicant for registry;

(b) in the case of a ship built outside India, the same evidence as in the case of a ship built in India unless the declarant who makes the declaration of ownership declares that the time and place of her building are not known to him, or that the builder's certificate cannot be procured, in which case there shall be required only the instrument of sale under which the ship or a share therein has become vested in the applicant for registry.

31. As soon as the requirements of this Act preliminary to registry have been complied with, the registrar shall enter in the register book the following particulars in respect of the ship:— Entry of particulars in register book.

(a) the name of the ship and the name of the port to which she belongs;

(b) the details contained in the surveyor's certificate;

(c) the particulars respecting her origin stated in the declaration of ownership; and

(d) the name and description of her registered owner or owners, and, if there are more owners than one, the number of shares owned by each of them.

32. On the registry of a ship, the registrar shall retain in his custody the following documents:— Documents to be retained by registrar.

(a) the surveyor's certificate;

(b) the builder's certificate;

(c) any instrument of sale by which the ship was previously sold;

(d) all declarations of ownership.

Power of Central Government to inquire into title of Indian ship to be so registered.

33. (1) Where it appears to the Central Government that there is any doubt as to the title of any Indian ship to be registered as an Indian ship, it may direct the registrar of her port of registry to require evidence to be given to his satisfaction within such time, not being less than thirty days as the Central Government may fix, that the ship is entitled to be registered as an Indian ship.

(2) If within such time as may be fixed by the Central Government under sub-section (1) evidence to the satisfaction of the registrar that the ship is entitled to be registered as an Indian ship is not given, the ship shall be liable to forfeiture.

#### *Certificate of registry*

Grant of certificate of registry.

34. On completion of the registry of an Indian ship, the registrar shall grant a certificate of registry containing the particulars respecting her as entered in the register book with the name of her master.

Custody and use of certificate.

35. (1) The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge or interest whatever, had or claimed by any owner, mortgagee or other person to, on or in the ship.

(2) No person, whether interested in the ship or not, who has in his possession or under his control the certificate of registry of a ship, shall refuse or omit without reasonable cause to deliver such certificate on demand to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship or to any registrar, customs collector or other person entitled by law to require such delivery.

(3) Any person refusing or omitting to deliver the certificate as required by sub-section (2), may, by order, be summoned by any magistrate of the first class to appear before him and to be examined touching such refusal; and if the person is proved to have absconded so that the order of such magistrate cannot be served on him, or if he persists in not delivering up the certificate, the magistrate shall certify the fact, and the same proceedings may then be taken as in the case of a certificate mislaid, lost or destroyed, or as near thereto as circumstances permit.

(4) If the master or owner of an Indian ship uses or attempts to use for her navigation a certificate of registry not legally granted in respect of the ship, he shall be guilty of an offence under this sub-section and the ship shall be liable to forfeiture.

36. (1) In the event of the certificate of registry of an Indian ship being defaced or mutilated, the registrar of her port of registry may, on the delivery to him of that certificate, grant a new certificate in lieu of her original certificate.

Power to grant new certificate when original certificate is defaced lost etc.

(2) In the event of the certificate of registry of an Indian ship being mislaid, lost or destroyed or of the person entitled thereto being unable to obtain it from the custody of any other person, the registrar of her port of registry shall grant a new certificate in lieu of her original certificate.

(3) If the port at which the ship is at the time of the event referred to in sub-section (2) or first arrives after the event is outside India, then the master of the ship or some other person having knowledge of the facts of the case shall make a declaration stating such facts and the names and descriptions of the registered owners of such ship to the best of the declarant's knowledge and belief to the nearest available Indian consular officer who may thereupon grant a provisional certificate containing a statement of the circumstances under which it is granted.

(4) The provisional certificate shall, within ten days after the first subsequent arrival of the ship at her port of discharge in India, be delivered by the master to the registrar of her port of registry and the registrar shall thereupon grant a new certificate of registry.

(5) If the certificate of registry stated to have been mislaid, lost or destroyed shall at any time afterwards be found, or if the person entitled to the certificate of registry obtains it at any time afterwards, the said certificate shall forthwith be delivered to the registrar of her port of registry to be cancelled.

37. Where the master of an Indian ship is changed, each of the following persons, that is to say,—

Endorsement on certificate of change of master.

(a) if the change is made in consequence of the removal of the master by a Marine Board or by a court under this Act, the presiding officer of the Marine Board or of the court, as the case may be;

(b) if the change occurs from any other cause,—

(i) in India, the registrar or any other officer authorised by the Central Government in this behalf at the port where the change occurs; and

(ii) outside India, the Indian consular officer at the port where the change occurs;

shall endorse and sign on the certificate of registry a memorandum of the change; and any customs collector at any port in India may refuse to permit any person to do any act there as master of an Indian ship unless his name is inserted in or endorsed on her certificate of registry as her last appointed master.

Endorsement  
on certificate  
of change of  
ownership.

38. (1) Whenever a change occurs in the registered ownership of an Indian ship, the change of ownership shall be endorsed on her certificate of registry either by the registrar of the ship's port of registry or by the registrar of any port at which the ship arrives who has been advised of the change by the registrar of the ship's port of registry.

(2) The master shall, for the purposes of such endorsement by the registrar of the ship's port of registry, deliver the certificate of registry to the registrar, forthwith after the change if the change occurs when the ship is at her port of registry, and if it occurs during her absence from that port and the endorsement under this section is not made before her return, then, upon her first return to that port.

(3) The registrar of any port, not being the ship's port of registry, who is required to make an endorsement under this section may, for that purpose, require the master of the ship to deliver to him the ship's certificate of registry so that the ship need not thereby be detained and the master shall deliver the same accordingly.

Delivery of  
certificate of  
ship lost or  
ceasing to be  
an Indian  
ship.

39. (1) In the event of a registered ship being either actually or constructively lost, taken by the enemy, burnt or broken up or ceasing for any reason to be an Indian ship, every owner of the ship or any share in the ship shall immediately on obtaining knowledge of the event, if no notice thereof has already been given to the registrar, give notice thereof to the registrar at her port of registry and that registrar shall make an entry thereof in the register book and its registry in that book shall be considered as closed except so far as relates to any unsatisfied mortgages entered therein.

(2) In any such case, except where the ship's certificate of registry is mislaid, lost or destroyed, the master of the ship shall, immediately if the event occurs in any port in India, or within ten days after his arrival in port if it occurs elsewhere, deliver the certificate to the registrar of the port or any other officer specified in this behalf by the Central Government if the port of arrival is in India, or if the arrival is in any port outside India to the Indian consular officer there, and the registrar if he is not himself the registrar of her port of registry or the officer so specified or the Indian consular officer, as the case may be, shall forthwith forward the certificate delivered to him to the registrar of her port of registry.

Provisional  
certificate  
for ships  
becoming  
Indian ships  
abroad.

40. (1) If at any port outside India a ship becomes entitled to be registered as an Indian ship, the Indian consular officer there may grant to her master on his application a provisional certificate containing such particulars as may be prescribed in relation to the ship



and shall forward a copy of the certificate at the first convenient opportunity to the Director-General.

(2) Such a provisional certificate shall have the effect of a certificate of registry until the expiration of six months from its date or until the arrival of the ship at a port where there is a registrar whichever first happens, and on either of those events happening shall cease to have effect.

41. Where it appears to the Central Government that by reason of special circumstances it is desirable that permission should be granted to any Indian ship to pass without being previously registered from one port to any other port in India, the Central Government may authorise the registrar of the first-mentioned port to grant a pass in such form as may be prescribed, and that pass shall for the time and within the limits therein mentioned have the same effect as a certificate of registry.

Temporary pass in lieu of certificate of registry.

*Transfers of ships, shares, etc.*

42. (1) No person shall transfer or acquire any Indian ship or any share or interest therein without the previous approval of the Central Government and any transaction effected in contravention of this provision shall be void and unenforceable.

Transfer of ships or shares.

(2) The Central Government may, if it considers it necessary or expedient so to do for the purpose of conserving the tonnage of Indian shipping, refuse to give its approval to any such transfer or acquisition.

(3) Subject to the other provisions contained in this section, an Indian ship or a share therein shall be transferred only by an instrument in writing.

(4) The instrument shall contain such description of the ship as is contained in the surveyor's certificate or some other description sufficient to identify the ship to the satisfaction of the registrar and shall be in the prescribed form or as near thereto as circumstances permit and shall be executed by the transferor in the presence of and be attested by at least two witnesses.

43. (1) Every instrument for the transfer of an Indian ship or of a share therein when duly executed shall be produced to the registrar of her port of registry, and the registrar shall thereupon enter in the register book the name of the transferee as owner of the ship or share, as the case may be, and shall endorse on the instrument the fact of that entry having been made with the day and hour thereof.

Registry of transfer.

(2) Every such instrument shall be entered in the register book in the order of its production to the registrar.

Transmis-  
sion of pro-  
perty in  
Indian ship  
on death,  
insolvency,  
etc.

44. (1) Where the property in an Indian ship or share therein is transmitted to a person on the death or insolvency of any registered owner, or by any lawful means other than by a transfer under this Act,—

(a) that person shall authenticate the transmission by making and signing a declaration in the prescribed form (in this Act referred to as a declaration of transmission) identifying the ship and also a statement of the manner in which and the person to whom the property has been transmitted;

(b) if the transmission is consequent on insolvency, the declaration of transmission shall be accompanied by proper proof of such claim;

(c) if the transmission is consequent on death, the declaration of transmission shall be accompanied by a succession certificate, probate or letters of administration under the Indian Succession Act, 1925, or a duly certified copy thereof.

39 of 1925.

(2) The registrar, on receipt of the declaration of transmission so accompanied, shall enter in the register book the name of the person entitled under the transmission as owner of the ship or share the property in which has been transmitted, and, where there are more persons than one, shall enter the names of all those persons, but those persons however numerous shall, for the purpose of the provisions of this Act with respect to the number of persons claiming to be registered as owners, be considered as one person:

Provided that nothing in this sub-section shall require the registrar to make an entry in the register book under this section, if he is of opinion that by reason of the transmission the ship has ceased to be an Indian ship.

Order for  
sale where  
ship has  
ceased to be  
an Indian  
ship.

45. (1) Where by reason of the transmission of any property in a ship or a share therein on death, insolvency or otherwise, a ship ceases to be an Indian ship, the registrar of her port of registry shall submit a report to the Central Government setting out the circumstances in which the ship has ceased to be an Indian ship.

(2) On receipt of such report, the Central Government may make an application to the High Court for a direction for the sale to any citizen of India or any company which satisfies the requirements specified in clause (b) of section 21 of the property so transmitted.

(3) The High Court may require any evidence in support of the application it thinks requisite and may make such order thereon and on such terms and conditions as it thinks just or may reject the application (in any case) it finds that the ship has not ceased to be an Indian ship; and in case the ship or the share is ordered to be sold, it

4 sub by Act 5 & of 1960, s 34, Sch II (w. eff. 26/2/60)

shall direct that the proceeds of the sale after deducting the expenses thereof, be paid to the person entitled under such transmission or otherwise.

(4) Every application for sale shall be made within such time as may be prescribed:

Provided that an application may be admitted by the High Court after the time prescribed, if the Central Government satisfies the High Court that it had sufficient cause for not making the application within such time.

46. Where any court, whether under section 45 or otherwise, orders the sale of any ship or share therein, the order of the court shall contain a declaration vesting in some person named by the court the right to transfer that ship or share, and that person shall thereupon be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner thereof; and every registrar shall obey the requisition of the person so named in respect of any such transfer to the same extent as if such person were the registered owner.

Transfer of ship on sale by order of court.

47. (1) A registered ship or a share therein may be made a security for a loan or other valuable consideration, and the instrument creating the security (in this Act called a mortgage) shall be in the prescribed form or as near thereto as circumstances permit, and on the production of such instrument the registrar of the ship's port of registry shall record it in the register book.

Mortgage of ship or share.

(2) Mortgages shall be recorded by the registrar in the order in time in which they are produced to him for that purpose, and the registrar shall, by memorandum under his hand, notify on each mortgage that it has been recorded by him stating the day and hour of that record.

48. Where a registered mortgage is discharged, the registrar shall, on the production of the mortgage deed with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the register book to the effect that the mortgage has been discharged, and on that entry being made the estate, if any, which passed to the mortgagee shall vest in the person in whom (having regard to intervening acts and circumstances, if any) it would have vested, if the mortgage had not been made.

Entry of discharge of mortgage.

49. If there are more mortgages than one recorded in respect of the same ship or share, the mortgagees shall, notwithstanding any express, implied or constructive notice, have priority according to the date on which each mortgage is recorded in the register book and not according to the date of each mortgage itself.

Priority of mortgages.

Mortgagee  
not deemed  
to be owner

50. Except in so far as may be necessary for making a mortgaged ship or share available as a security for the mortgage debt, the mortgagee shall not, by reason of his mortgage, be deemed to be the owner of the ship or share, nor shall the mortgagor be deemed to have ceased to be owner thereof.

Rights of  
mortgagee.

51. (1) A registered mortgagee of a ship or share shall be entitled to recover the amount due under the mortgage in the High Court, and when passing a decree or thereafter the High Court may direct that the mortgaged ship or share be sold in execution of the decree.

(2) Subject to the provisions of sub-section (1), no such mortgagee shall merely by virtue of the mortgage be entitled to sell or otherwise dispose of the mortgaged ship or share.

Mortgage  
not affected  
by insolvency.

52. A registered mortgage of a ship or share shall not be affected by any act of insolvency committed by the mortgagor after the date of the record of such mortgage, notwithstanding that the mortgagor, at the commencement of his insolvency, had the ship or share in his possession, order or disposition, or was the reputed owner thereof, and the mortgage shall be preferred to any right, claim or interest therein of the other creditors of the insolvent or any trustee or assignee on their behalf.

Transfer of  
mortgages.

53. (1) A registered mortgage of a ship or share may be transferred to any person and the instrument effecting the transfer shall be in the prescribed form or as near thereto as circumstances permit, and on the production of such instrument, the registrar shall record it by entering in the register book the name of the transferee as mortgagee of the ship or share and shall, by memorandum under his hand, notify on the instrument of transfer that it has been recorded by him stating the day and hour of the record.

(2) The person to whom any such mortgage has been transferred shall enjoy the same right of preference as was enjoyed by the transferor.

Transmission  
of interest  
in mortgage  
in certain  
circumstances.

54. (1) Where the interest of a mortgagee in a ship or share is transmitted on death, or insolvency, or by any lawful means other than by a transfer under this Act, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted containing a statement of the manner in which and the person to whom the property has been transmitted, and shall be accompanied by the like evidence as is by this Act required in case of a corresponding transmission of the ownership of a ship or share.

(2) The registrar, on receipt of the declaration and the production of the evidence aforesaid, shall enter the name of the person entitled under the transmission in the register book as mortgagee of the ship or share.

Name of ship

55. (1) An Indian ship shall not be described by any name other than that by which she is for the time being registered. Rules as to name of ship.

(2) The registrar may refuse the registry of any Indian ship by the name by which it is proposed to register the ship if that name is already borne by another ship or if the name be so similar as is calculated or likely to deceive.

(3) A change shall not be made in the name of an Indian ship except in the prescribed manner.

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[Section] (4) If any person acts or suffers any person under his control to act in contravention of this section or omits to do or suffers any person under his control to omit to do anything required under this ~~sub-section~~, the ship may be detained until the provisions of this section are complied with:

Provided that nothing in this sub-section shall apply to a foreign ship which has become, and is sought to be registered as, an Indian ship.

Registry of alterations, registry anew and transfer of registry

56. When a registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book, then, if the alteration is made at any port having a registrar, that registrar, or if it is made elsewhere, the registrar of the first port having a registrar at which the ship arrives after the alteration, shall, on application being made to him stating the particulars of the alteration, either cause the alteration to be registered or direct that the ship be registered anew. Registry of alterations.

57. (1) For the purpose of registry of an alteration in a ship the ship's certificate of registry shall be produced to the registrar, and the registrar shall, in his discretion, either retain the certificate of registry and grant a new certificate of registry containing a description of the ship as altered or endorse and sign on the existing certificate a memorandum of the alteration. Regulations for registry of alterations.

(2) The particulars of the alteration so made, and the fact of the new certificate having been granted, or endorsement having been made, shall be entered by the registrar of the ship's port of registry in his register book; and for that purpose the registrar to whom the application for the registry of the alteration has been made (if he is not the registrar of the ship's port of registry) shall forthwith report to the last-mentioned registrar the particulars and facts as aforesaid, accompanied, where a new certificate of registry has been granted, by the old certificate of registry.

Provisional certificate and endorsement where ship is to be registered anew.

58. (1) Where any registrar, not being the registrar of the ship's port of registry, on an application as to an alteration in a ship directs the ship to be registered anew, he shall either grant a provisional certificate describing the ship as altered, or provisionally endorse the particulars of the alteration on the existing certificate.

(2) Every such provisional certificate, or certificate provisionally endorsed, shall, within ten days after the first subsequent arrival of the ship at her port of discharge in India, be delivered to the registrar thereof and that registrar shall cause the ship to be registered anew.

(3) The registrar granting a provisional certificate, or provisionally endorsing a certificate under this section shall add to the certificate or endorsement a statement that the same is made provisionally, and shall send a report of the particulars of the case to the registrar of the ship's port of registry, containing a similar statement as the certificate or endorsement.

Registry anew on change of ownership.

59. Subject to the other provisions contained in this Act, where the ownership of any Indian ship is changed, the registrar of the port at which the ship is registered may, on the application of the owner of the ship, register the ship anew although registry anew is not required under this Act.

Procedure for registry anew.

60. (1) Where a ship is to be registered anew, the registrar shall proceed as in the case of first registry, and on the delivery to him of the existing certificate of registry and on the other requisites to registry, or in the case of a change of ownership such of them as he thinks material, being duly complied with, shall make such registry anew, and grant a certificate thereof.

(2) When a ship is registered anew, her former registry shall be considered as closed except so far as relates to any unsatisfied mortgage entered thereon, but the names of all persons appearing on the former register to be interested in the ship as owners or mortgagees shall be entered in the new register and the registry anew shall not in any way affect the rights of any of those persons.

Transfer of registry.

61. (1) The registry of any ship may, with the previous approval of the Director-General, be transferred from one port of registry to another on the application to the registrar of the existing port of registry of the ship made by declaration in writing of all persons appearing in the register to be interested therein as owners or mortgagees, but that transfer shall not in any way affect the rights of those persons or any of them and those rights shall in all respects continue in the same manner as if no such transfer had been effected.

(2) On receipt of any such application the registrar shall transmit notice thereof to the registrar of the intended port of registry with a

copy of all particulars relating to the ship and the names of all persons appearing in that register to be interested therein as owners or mortgagees.

(3) The ship's certificate of registry shall be delivered to the registrar either of the existing or intended port of registry, and, if delivered to the former, shall be transmitted to the registrar of the intended port of registry.

(4) On receipt of the documents aforesaid the registrar of the intended port of registry shall enter in his register book all the particulars and names so transmitted as aforesaid, and grant a fresh certificate of registry, and thenceforth such ship shall be considered to be registered at the new port of registry, and the name of the ship's new port of registry shall be substituted for the name of her former port of registry on the ship.

62. Where a ship has ceased to be registered as an Indian ship by reason of having been wrecked or abandoned, or for any reason other than capture by the enemy, the ship shall not be re-registered until she has at the expense of the applicant for the registry been surveyed by a surveyor and certified by him to be seaworthy.

*Restrictions on re-registry of abandoned ships.*

*National character and flag*

63. (1) The Central Government may, by notification in the Official Gazette, declare what shall be the proper national colours for all ships registered under this Act and for all ships which are not so registered but which are owned by the Government or by any local authority or by any body corporate established by or under any law for the time being in force in India or by a citizen of India; and different colours may be declared for different classes of ships.

*National colours for Indian ships.*

(2) Any commissioned officer of the Indian Navy, or any customs collector, or any Indian consular officer, may board any ship on which any colours are hoisted contrary to this Act and seize and take away the colours which shall be forfeited to the Government.

64. No person on board a ship which is not an Indian ship shall, for the purpose of making it appear to be an Indian ship, use the Indian national colours, unless the assumption of Indian character has been made (the burden of proving which shall lie on him) for the purpose of escaping capture by the enemy or by a foreign ship of war in the exercise of some belligerent right.

*Unlawful assumption of Indian character.*

65. No owner or master of an Indian ship shall knowingly do anything, or permit anything to be done, or carry or permit to be carried any papers or documents, with intent to conceal the Indian character of the ship from any person entitled by any law for the time being in force to inquire into the same, or with intent to assume a foreign character for the ship, or with intent to deceive any person so entitled as aforesaid.

*Concealment of Indian, or assumption of foreign, character.*

Indian ships to hoist proper national colours in certain cases.

66. An Indian ship shall hoist the proper national colours—

(a) on a signal being made to her by any vessel of the Indian Navy;

(b) on entering or leaving any foreign port;

(c) if of fifty tons gross tonnage or more, on entering or leaving any Indian port.

National character of ship to be declared before clearance.

67. (1) A customs collector shall not grant a clearance for any ship until the master of such ship has declared to that officer the name of the country to which he claims that she belongs, and that officer shall thereupon inscribe that name on the clearance.

(2) If a ship attempts to proceed to sea without such clearance, she may be detained by any customs collector until the declaration is made.

#### Miscellaneous

Liabilities of ships not recognised as Indian ships.

68. Where it is declared by this Act that an Indian ship shall not be recognised as such, that ship shall not be entitled to any privileges, benefits, advantages or protection usually enjoyed by Indian ships or to use the Indian national colours for Indian ships or to assume the Indian national character, but so far as regards the payment of dues, the liability to fine and forfeiture and the punishment of offences committed on board such ship, or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if she were a recognised Indian ship.

Proceedings on forfeiture of ship.

69. Where any ship has either wholly or as to any share therein become subject to forfeiture under this Part, any commissioned officer of the Indian Navy, any customs collector or any Indian consular officer or any other officer authorised by the Central Government, may seize and detain the ship, and bring her for adjudication before the High Court, and the High Court may thereupon adjudge the ship with her equipment to be forfeited to the Government, and make such order in the case as to the High Court seems just and may award to the officer bringing in the ship for adjudication such portion of the proceeds of the sale of the ship or any share therein as the High Court thinks fit.

Notice of trust not received.

70. No notice of any trust, express, implied or constructive, shall be entered in the register book or be receivable by the registrar, and subject to any rights and powers appearing by the register book to be vested in any other person, the registered owner of a ship or of a share therein shall have power to dispose of the ship or share in the manner provided in this Act and to give effectual receipts for any money paid or advanced by way of consideration.

Liability of owners.

71. Where any person is beneficially interested otherwise than by way of mortgage in any ship or share in a ship registered in the name



of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all the pecuniary penalties imposed by this or any other Act on the owners of ships or shares therein, so nevertheless that proceedings for the enforcement of any such penalties may be taken against both or either of the said parties with or without joining the other of them.

72. (1) On application to the registrar and on payment of the prescribed fee, a person may, at any time during office hours, inspect any register book, and may obtain a certified copy of any entry in the register book.

Evidence of register book, certificate of registry and other documents.

(2) The following documents shall be admissible in evidence in any court in manner provided by this Act, namely:—

(a) any register book on its production from the custody of the registrar or other person having the lawful custody thereof;

(b) a certificate of registry under this Act purporting to be signed by the registrar or any other officer authorised in this behalf by the Central Government;

(c) an endorsement on a certificate of registry purporting to be signed by the registrar or any other officer authorised in this behalf by the Central Government;

(d) every declaration made in pursuance of this Part in respect of an Indian ship.

(3) A certified copy of an entry in a register book shall be admissible in evidence in any court and have the same effect to all intents as the original entry in the register book of which it is a copy.

73. The Central Government may, by notification in the Official Gazette, direct that, subject to such rules as may be made in this behalf, ships belonging to the Government other than ships of the Indian Navy may be registered as Indian ships under this Act and thereupon this Act, subject to any exceptions and modifications which may be made in the notification either generally or with respect to any class of ships belonging to Government, shall apply to ships belonging to Government registered in accordance with those rules as they apply to Indian ships registered in manner provided by this Act.

Power to register Government ships under this Part.

74. (1) The Central Government may make rules to carry out the purposes of this Part.

(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:—

Power to make rules in respect of matters in this Part.

(a) the manner in which the tonnage of any ship shall be ascertained, whether for the purpose of registration or otherwise, including the mode of measurement;

(b) the recognition for the purpose of ascertaining the tonnage of any ship or for any other purpose, of any tonnage certificate granted in respect of any ship in any country outside India, the tonnage regulations of which are substantially the same as the tonnage rules made by the Central Government, including the conditions and restrictions subject to which such recognition may be granted;

(c) the manner in which surveys of ships shall be conducted and the form of certificates of surveying officers;

(d) the manner in which ships shall be marked;

(e) the form in which any document required by this Part shall be prepared and the particulars which it should contain;

(f) the persons by whom and the authorities before which any declaration required by this Part shall be made and the circumstances in which any such declaration may be waived and other evidence accepted;

(g) the form of the instrument creating a mortgage on a ship or share or transferring a mortgage;

(h) the returns that shall be made by registrars to the Director-General or to such other authority as the Central Government may appoint and the form in which and the intervals within which such returns shall be made;

(i) the procedure for the registration, marking or alteration of the names of Indian ships;

(j) the fees that may be levied under this Part and the manner in which such fees shall be collected;

(k) the manner in which registrars and other authorities may exercise their powers under this Part or maintain their books and other registers;

(l) the manner in which ships belonging to the Government, to which the provisions of this Act may be made applicable under section 73, may be registered;

(m) any other matter which may be or is to be prescribed.

## PART VI

### CERTIFICATES OF OFFICERS

#### *Masters, mates and engineers*

**Application of Part.** 75. This Part applies only to sea-going ships fitted with mechanical means of propulsion.

76. (1) Every foreign-going Indian ship, every home-trade Indian ship of two hundred tons gross or more when going to sea from any port or place in India and every ship carrying passengers between ports or places in India shall be provided with officers duly certificated under this Act according to the following scale, namely:—

Certificates of competency to be held by officers of ships.

(a) in every case, with a duly certificated master;

(b) if the ship is a foreign-going ship or a home-trade passenger ship of one hundred and fifty tons gross or more, with at least one officer besides the master holding a certificate not lower than that of first mate in the case of a foreign-going ship and of mate in the case of a home-trade passenger ship;

(c) if the ship is a home-trade ship, not being a passenger ship, of four hundred and fifty tons gross or more, with at least one officer besides the master holding a certificate not lower than that of mate;

(d) if the ship is a foreign-going ship and carries more than one mate, then with the second mate duly certificated.

(2) Every foreign-going Indian ship when going to sea from any port or place in India shall be provided with engineers duly certificated under this Act according to the following scale, namely:—

(a) if the ship is of one hundred nominal horse-power or more, with at least two engineers one of whom shall be a first class engineer designated as the chief engineer, and the other a first class or second class engineer designated as the second engineer;

(b) if the ship is of less than one hundred nominal horse-power, with at least one first class or second class engineer designated as the chief engineer.

(3) Every home-trade Indian ship when going to sea from any port or place in India and every ship carrying passengers between ports or places in India shall be provided with engineers or engine drivers duly certificated according to the following scale, namely:—

(a) if the ship is of fifty nominal horse-power or more, with at least one first class or second class engineer designated as the chief engineer;

(b) if the ship is of less than fifty nominal horse-power, with at least one first class or second class engineer designated as the chief engineer, or with at least one engine driver of a sea-going ship.

(4) Every fishing vessel when going to sea from any port or place in India shall be provided—

(a) if the vessel exceeds twenty-five tons gross but does not exceed fifty tons gross, with a certificated skipper;

(b) if the vessel exceeds fifty tons gross, with a certificated skipper and a certificated second hand;

(c) if the vessel is of fifty nominal horse-power or more, with at least one engineer duly certificated, being an engineer of a fishing vessel, who shall be designated as the chief engineer;

(d) if the vessel is of less than fifty nominal horse-power, with at least one engineer duly certificated, being an engineer of a fishing vessel, who shall be designated as the chief engineer or with at least one engine driver of a fishing vessel duly certificated.

*Explanation.*—For the purposes of clause (c), persons holding certificates of competency as first class or second class engineers shall be deemed to be duly certificated and for the purposes of clause (d), persons holding certificates of competency as engine drivers of sea-going ships shall be deemed to be duly certificated.

(5) Nothing in this section which relates to engineers or engine drivers shall apply to any ship to which the provisions of the Inland Steam-vessels Act, 1917, apply.

1 of 1917.

*Explanation.*—In this section “nominal horse-power”, in relation to any ship, means the horse-power of the engines of the ship calculated in the prescribed manner.

When officers deemed duly certificated. 77. Subject to the provisions contained in section 86, an officer shall not be deemed to be duly certificated under this Act unless he holds a certificate of a grade appropriate to his station in the ship or of a higher grade granted in accordance with this Act.

Grades of certificates of competency. 78. (1) Certificates of competency shall be granted in accordance with this Act for each of the following grades, namely:—

- master of a foreign-going ship;
- first mate of a foreign-going ship;
- second mate of a foreign-going ship;
- master of a home-trade ship;
- mate of a home-trade ship;
- first class engineer;
- second class engineer;

engine driver of a sea-going ship;  
skipper of a fishing vessel;  
second hand of a fishing vessel;  
engineer of a fishing vessel;  
engine driver of a fishing vessel.

(2) A certificate of competency granted for the grade of first or second class engineer or engine driver shall state whether it entitles the holder to act as engineer or engine driver of ships fitted with steam engines or of ships fitted with any other type of engines and the holder shall not be entitled to act as engineer or engine driver of a ship fitted with a type of engine not stated in the certificate.

(3) If it appears to the Central Government that certificates of competency for grades other than those referred to in sub-section (1) may be granted, it may, by notification in the Official Gazette, specify the other grades in respect of which certificates of competency may be granted.

(4) A certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last-mentioned ship; but no certificate for a home-trade ship shall entitle the holder to go to sea as master or mate of a foreign-going ship.

79. (1) The Central Government or a person duly authorised by Examinations it in this behalf shall appoint persons for the purpose of examining for, and grant of, the qualifications of persons desirous of obtaining certificates of certificates. competency under section 78.

(2) The Central Government or such authorised person shall grant to every applicant, who is duly reported by the examiners to have passed the examination satisfactorily and to have given satisfactory evidence of his sobriety, experience and ability and general good conduct on board ship, such a certificate of competency as the case requires:

Provided that the Central Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

Certificates  
of service of  
naval  
officers.

80. (1) A person who has attained the rank of lieutenant in the executive branch of the Indian Navy shall be entitled to a certificate of service as the master of a foreign-going ship without examination.

(2) A person who has attained the rank of lieutenant or sub-lieutenant in the engineering branch of the Indian Navy shall be entitled without examination, if a lieutenant to a certificate of service as first class engineer, and if a sub-lieutenant to a certificate of service as second class engineer.

(3) The Central Government may, by rules made under this Act and subject to such conditions and restrictions as may be specified therein, provide for the grant of certificates of service to officers of the Indian Naval Reserve Forces who have attained the prescribed ranks.

(4) A certificate of service shall differ in form from a certificate of competency and shall contain the name and rank of the person to whom it is delivered, and the Central Government shall deliver a certificate of service to any person who proves himself to be entitled thereto.

(5) Notwithstanding anything contained in this section, the Central Government may, if it is of opinion that a person who is entitled to a certificate of service under this section is not a fit person to hold such certificate, refuse to grant or deliver such certificate to him.

(6) The provisions of this Act (including the provisions relating to penalties) shall apply in relation to a certificate of service as they apply in relation to a certificate of competency.

Form of  
certificates.

81. Every certificate of competency granted under this Act shall be in the prescribed form and shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner.

Record of  
orders affect-  
ing certifi-  
cates.

82. A note of all orders made for cancelling, suspending, altering or otherwise affecting any certificate of competency, in pursuance of the powers contained in this Act, shall be entered on the copy of the certificate kept under section 81.

83. Whenever a person holding a certificate granted under this Act proves to the satisfaction of the Central Government that he has, without fault on his part, lost or been deprived of such certificate, the Central Government shall, on payment of the prescribed fee, cause a copy of the certificate, to which by the record kept in accordance with this Act he appears to be entitled, to be granted to him, and such copy shall have all the effect of the original.

Loss of certificates.

84. (1) The master of a foreign-going ship or the master of a home-trade ship of two hundred tons gross or more—

Production of certificates of competency to shipping master.

(a) on signing the agreement with his crew, shall produce to the shipping master before whom the same is signed, the certificates of competency which the master, mate, engineers and engine drivers of the ship are by this Act required to hold; and

(b) in the case of a running agreement, shall, also, before the second and every subsequent voyage, produce to the shipping master the certificate of competency of any mate or engineer then first engaged by him who is required by this Act to hold a certificate.

(2) Upon the production of the certificates of competency, the shipping master shall, if the certificates are such as the master, mates and engineers of the ship ought to hold, give to the master a certificate to the effect that the proper certificates of competency have been so produced.

(3) The master shall, before proceeding to sea, produce the certificate given to him by the shipping master to the customs collector.

(4) No customs collector shall clear any such ship outwards without the production of such certificate; and, if any ship attempts to go to sea without a clearance, the customs collector may detain her until the certificate is produced.

85. If it appears to the Central Government that the holder of a certificate granted under this Act has obtained it on false or erroneous information, it may cancel or suspend such certificate:

Power to cancel or suspend certificates obtained on false or erroneous information.

Provided that no order under this section shall be passed by the Central Government unless the person concerned has been given an opportunity of making a representation against the order proposed.

Recognition of certificates of competency or service granted in other countries.

86. (1) If provision is made by the laws in force in any country other than India for the grant of certificates of competency or service similar to those referred to in this Act, and the Central Government is satisfied—

(a) that the conditions under which any such certificates are granted in that country require standards of competency or service not lower than those required for the grant under this Act of corresponding certificates; and

(b) that certificates granted under this Act are accepted in that country in lieu of the corresponding certificates granted under the laws of that country;

the Central Government may, by notification in the Official Gazette, declare that any certificate of competency or service granted under the laws in force in that country and specified in that notification, shall for the purposes of this Act be recognised as equivalent to the corresponding certificate of competency or service granted under this Act and specified in the notification.

(2) Whenever the provisions of this Act require that a person employed in any capacity on board any ship shall be the holder of a specified certificate of competency or service granted under this Act, any person employed in that capacity shall, if he is the holder of a certificate recognised under sub-section (1) as equivalent to the first-mentioned certificate or to a certificate of higher grade granted under this Act, and still in force, be deemed to be duly certificated under this Act.

Power to make rules as to grant, cancellation or suspension of certificates of competency.

87. The Central Government may make rules to carry out the provisions of this Part relating to certificates of competency, and may, by such rules,—

(a) prescribe the manner in which the horse-power of the engines of ships may be calculated, and the methods by which such calculation may be made in respect of different types of engines;

(b) provide for the conduct of the examination of persons desirous of obtaining certificates of competency for the grades falling under section 78;

(c) prescribe the qualifications to be respectively required of persons desirous of obtaining certificates of competency for the grades falling under section 78;

(d) fix the fees to be paid by applicants for examination;



(e) prescribe the form of such certificates and the manner in which copies of certificates are to be kept and recorded;

(f) prescribe the circumstances or cases in which certificates of competency may be cancelled or suspended.

## PART VII

### SEAMEN AND APPRENTICES

#### *Classification of seamen and prescription of minimum manning scale*

88. The Central Government may make rules for the classification of seamen other than ship's officers into different categories and for the prescription of the minimum manning scale of seamen of such categories for ships; and different scales may be prescribed for different classes of ships.

Power to classify seamen.

#### *Shipping masters.*

89. It shall be the duty of shipping masters—

(a) to superintend and facilitate the engagement and discharge of seamen in the manner provided in this Act;

(b) to provide means for securing the presence on board at the proper times of the seamen who are so engaged;

(c) to facilitate the making of apprenticeship to the sea service;

(d) to hear and decide disputes under section 132 between a master, owner or agent of a ship and any of the crew of the ship;

(e) to perform such other duties relating to seamen, apprentices and merchant ships as are for the time being committed to them by or under this Act.

Duties of shipping masters.

90. (1) The Central Government may, by notification in the Official Gazette, fix the fees which shall be payable upon all engagements and discharges effected before a shipping master.

Fees to be paid.

(2) Scales of the fees payable for the time being shall be conspicuously placed in the shipping office, and a shipping master may refuse to proceed with any engagement or discharge unless the fees payable thereon are first paid.

(3) Every owner or master of a ship engaging or discharging any seaman in a shipping office or before a shipping master, shall pay to the shipping master the whole of the fees hereby made payable

in respect of such engagement or discharge, and may, for the purpose of reimbursing himself in part, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain any sums not exceeding such sums as the Central Government may, by notification in the Official Gazette, fix in this behalf:

Provided that, if in any case the sums which may be so deducted exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping master in addition to such fee.

(4) For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as hereinafter provided, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

#### *Apprenticeship to the sea service*

Assistance  
for appren-  
ticeship to  
sea service.

91. All shipping masters shall give to persons desirous of apprenticing boys not under fifteen years of age to the sea service or requiring apprentices not under that age for the sea service such assistance as may be in their power, and may receive from those persons such fees as the Central Government may fix.

Special pro-  
visions as to  
apprentice-  
ship to the  
sea service.

92. (1) The apprenticeship of any boy to the sea service shall be by contract in writing between the apprentice or on his behalf by his guardian, if the boy is a minor, and the master or owner of the ship requiring the apprentice.

(2) Every such contract shall be executed in duplicate in the prescribed form and in accordance with the rules made by the Central Government in this behalf.

(3) Every such contract shall be executed in the presence of, and shall be attested by, the shipping master of the port, who shall, before the execution of the contract, satisfy himself—

(a) that the intended apprentice—

(i) understands the contents and provisions of the contract;

(ii) freely consents to be bound;

(iii) has attained the age of fifteen years; and

(iv) is in possession of a certificate to the effect that he is physically fit for sea service;

(b) if the intended apprentice is a minor, that his guardian's consent has been obtained to his being bound as an apprentice.

(4) Every such contract made in India and every assignment, alteration or cancellation thereof, and where the apprentice bound dies or deserts, the fact of the death or desertion shall be recorded in the manner specified in section 93.

93. For the purpose of the record—

(a) the master or owner of the ship to whom an apprentice to the sea service is bound shall transmit the contract executed in duplicate within seven days of the execution thereof, to the shipping master, who shall record one copy and endorse on the other the fact that it has been recorded and redeliver it to the master or owner;

Manner in which contract is to be recorded.

(b) the master or owner shall notify any assignment or cancellation of the contract and the death or desertion of the apprentice to the shipping master, within seven days of the occurrence, if it occurs within India, or, as soon as circumstances permit, if it occurs elsewhere.

94. (1) The master of a ship shall, before carrying an apprentice to sea from a port in India, cause the apprentice to appear before the shipping master before whom the crew are engaged, and shall produce to him the contract by which the apprentice is bound, and every assignment thereof.

Production of contracts to authorised person before voyage in ship.

(2) The name of the apprentice, with the date of the contract and of the assignments thereof, if any, and the names of the ports at which the same have been registered, shall be entered on the agreement with the crew.

*Seamen's employment offices*

95. (1) It shall be the business of the seamen's employment offices—

Business of seamen's employment offices.

(a) to regulate and control—

(i) the supply of such categories of seamen and for such class of ships as may be prescribed;

(ii) the recruitment of persons for employment as seamen and the retirement of seamen from such employment;

(iii) the promotion of seamen or changes of their categories;

(b) to maintain registers of seamen in respect of the categories prescribed under sub-clause (i) of clause (a);

(c) to perform such other duties relating to seamen and merchant ships as are, from time to time, committed to them by or under this Act.

(2) Where there is in existence at any port a seamen's employment office, then, notwithstanding anything to the contrary contained in any other provision of this Act, no person shall receive or accept to be entered on board any ship of the class prescribed under sub-section (1) any seaman of the categories prescribed under that sub-section, unless such seaman has been supplied by such seamen's employment office.

(3) The Central Government may make rules for the purpose of enabling seamen's employment offices effectively to exercise their powers under this Act; and in particular and, without prejudice to the generality of such power, such rules may provide for—

(a) consultation with respect to any specified matter by seamen's employment offices with such advisory boards or other authorities as the Central Government may think fit to constitute or specify in this behalf;

(b) the levy and collection of such fees as may be specified for any seamen's employment office for registering the name of any seaman in any register maintained by it;

(c) the issue of directions by the Central Government to any seamen's employment office with reference to the exercise of any of its powers;

(d) the supersession of any seamen's employment office which fails to comply with any such direction.

Supply or engagement of seamen in contravention of Act prohibited.

96. (1) A person shall not engage or supply a seaman to be entered on board any ship in India unless that person is the owner, master or mate of the ship, or is the agent of the owner or is *bona fide* the servant and in the constant employ of the owner, or is a director of a seamen's employment office, or a shipping master.

(2) A person shall not employ for the purpose of engaging or supplying a seaman to be entered on board any ship in India, any person unless that person is the owner, master or mate of the ship, or is the agent of the owner or is *bona fide* the servant and in the constant employ of the owner, or is a director of a seamen's employment office, or a shipping master.

(3) A person shall not receive or accept to be entered on board any ship any seaman, if that person knows that the seaman has been engaged or supplied in contravention of this section or section

97. A person shall not demand or receive, either directly or indirectly, from any seaman, or from any person seeking employment as a seaman, or from any person on his behalf, any remuneration whatever for providing him with employment, other than the fees authorised by this Act.

Receipt of remuneration from seamen for shipping them prohibited.

*Engagement of seamen*

98. (1) The Central Government may, by notification in the Official Gazette, direct that, with effect from such date as may be specified in the notification, seamen generally or any category of seamen in particular shall not be engaged or carried to sea to work in any capacity in any ship or in any class of ships so specified, unless each one of them possesses the prescribed qualifications.

Qualifications for, and medical examination of, seamen.

(2) Except as otherwise provided under the rules made under sub-section (3), no person shall engage or carry to sea any seaman to work in any capacity in any ship or in any class of ships specified in this behalf by the Central Government, unless the seaman is in possession of a certificate in the prescribed form granted by the prescribed authority to the effect that he is physically fit to be employed in that capacity.

(3) The Central Government may make rules for the purpose of giving effect to the provisions of this section; and, in particular, and, without prejudice to the generality of such power, any rules so made may provide for—

(a) the courses of training to be pursued, the vocational standards to be attained or the tests to be passed by seamen generally or by any class of seamen in particular;

(b) the standard of physical fitness required of seamen, different standards being laid down, if necessary, for different classes of seamen having regard to the age of the seamen to be examined or the nature of the duties to be performed by them;

(c) the nature of the medical examination of seamen, the authorities by which the examination shall be conducted, and the fees payable therefor;

(d) the form and contents of medical certificates and the period of their validity;

(e) the re-examination by such medical authority as may be specified of persons who have been refused medical certificates of physical fitness in the first instance and the fees payable for such re-examination;

(f) the circumstances in which, or the conditions subject to which, any seaman or class of seamen, or any ship or class of ships, may be exempted from the operation of sub-section (2).

Prohibition of engagement of seamen in Indian port without discharge certificate.

99. No person shall engage or carry to sea any seaman under this Act in any ship, except a home-trade ship of less than two hundred tons gross, from any port in India unless the seaman is in possession of a certificate of discharge or a continuous certificate of discharge issued under this Part.

Agreements with crew.

100. The master of every Indian ship, except a home-trade ship of less than two hundred tons gross, shall enter into an agreement (in this Act called the agreement with the crew) in accordance with this Act with every seaman whom he engages in, and carries to sea as one of his crew from, any port in India.

Form and contents of the agreement.

101. (1) An agreement with the crew shall be in the prescribed form, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same.

(2) The agreement with the crew shall contain as terms thereof the following particulars, namely:—

(a) the name of the ship or ships on board which the seaman undertakes to serve;

(b) either the nature and, as far as practicable, the duration of the intended voyage or engagement or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend;

(c) the number and description of the crew of different categories in each department;

(d) the time at which each seaman is to be on board or to begin work;

(e) the capacity in which each seaman is to serve;

(f) the amount of wages which each seaman is to receive;

(g) a scale of the provisions which are to be furnished to each seaman, such scale being not less than the scale fixed by the Central Government and published in the Official Gazette;

(h) a scale of warm clothing and a scale of additional provisions to be issued to each seaman during periods of employment in specified cold regions;

(i) any regulations as to conduct on board and as to fines or other lawful punishments for misconduct, which have been sanctioned by the Central Government as regulations proper to be adopted, and which the parties agree to adopt;

(j) payment of compensation for personal injury or death caused by accident arising out of and in the course of employment;

(k) where it is agreed that the services of any seaman shall end at any port not in India, a stipulation to provide him either fit employment on board some other ship bound to the port at which he was shipped or to such other port in India as may be agreed upon, or a passage to some port in India free of charge or on such other terms as may be agreed upon;

(l) stipulations relating to such other matters as may be prescribed.

(3) The agreement shall provide that in the event of a dispute arising outside India between the master, owner or agent of a ship and a seaman in respect of any matter touching the agreement, such dispute shall be referred to the Indian consular officer whose decision thereon shall be binding on the parties until the return of the ship to the port in India at which the seaman is to be discharged:

Provided that in the case of a ship other than an Indian ship, no such dispute shall be referred to the Indian consular officer if such reference is contrary to the rules of international law.

(4) The agreement with the crew shall be so framed as to admit of stipulations, to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of this Act) respecting the advance and allotment of wages and may contain any other stipulations which are not contrary to law.

102. If the master of a ship registered at a port outside India has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged and engages a seaman in any port in India, not being the holder of a certificate of discharge or a continuous certificate of discharge issued in India, the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

Engagement of seaman where agreement is made out of India.

103. (1) The following provisions shall have effect with respect to every agreement made in India with the crew of an Indian ship, namely:—

Special provisions with regard to agreements with crew of Indian ships.

(a) the agreement shall, subject to the provision of this Act as to substitutes, be signed by each seaman in the presence of a shipping master;

(b) the shipping master shall cause the agreement to be read over and explained to each seaman, in a language understood by him or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature;

(c) when the crew is first engaged, the agreement shall be signed in duplicate, and one part shall be retained by the shipping master, and the other part shall be delivered to the master and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship;

(d) when a substitute is engaged in the place of a seaman who has duly signed the agreement and whose services are within twenty-four hours of the ship's putting to sea lost by death, desertion or other unforeseen cause, the engagement shall, if practicable, be made before a shipping master, and if not practicable, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute; and the substitute shall thereupon sign the same in the presence of a witness, who shall attest the signature.

(2) In the case of an agreement made in India with the crew of a foreign-going Indian ship, the following provisions shall have effect in addition to the provisions specified in sub-section (1), namely:--

(a) the agreement may be made for a voyage of the ship or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made are in this Act referred to as running agreements;

(b) a running agreement may be made to extend over two or more voyages so that it shall terminate either within six months from the date on which it was executed, or on the first arrival of the ship at her port of destination in India after the expiration of that period, or on the discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest:

Provided that no such running agreement shall continue in force, if, after the expiration of such period of six months as aforesaid, the ship proceeds on a voyage from a port outside India to any other such port which is not on the direct route or a customary route to her port of destination in India;



(c) on every return to a port in India before the final termination of a running agreement, the master shall discharge or engage before the shipping master at such port any seaman whom he is required by law so to discharge or engage, and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law;

(d) the master shall deliver the running agreement so endorsed to the shipping master, and the shipping master shall, if the provisions of this Act relating to agreements have been complied with, sign the endorsement and return the agreement to the master.

(3) In the case of an agreement made in India with the crew of a home-trade Indian ship of two hundred tons gross or more, the following provisions shall have effect in addition to the provisions specified in sub-section (1), namely:—

(a) the agreement shall not be for a period longer than six months, but if the period for which the agreement was entered into expires while the ship is not in an Indian port, the agreement shall continue in force until the ship is again in an Indian port:

Provided that, except with the consent in writing of the seaman concerned, the agreement shall not continue in force for more than three months after the expiration of the period for which it was entered into;

(b) an agreement for service in two or more ships belonging to the same owner may be made by the owner instead of by the master, and the provisions of this Act with respect to the making of the agreement shall apply accordingly.

104. (1) When a running agreement has been made with the crew of a foreign-going Indian ship and the ship arrives after the expiration of a period of six months from the date on which it was executed at a port of destination in India which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the shipping master, renew the agreement with the crew, or may be required by the shipping master so to renew the agreement for the voyage from such port of destination to the port in India at which the crew have agreed to be discharged.

Renewal of running agreements in certain cases.

(2) If the master of the ship is required by the shipping master to renew the agreement as aforesaid and refuses so to renew it, any expenses which may be incurred by the Government for the

subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of this Act.

Changes in crew to be reported.

105. The master of every foreign-going Indian ship and of every home-trade Indian ship of two hundred tons gross or more, the crew of which has been engaged before a shipping master, shall, before finally leaving the port where the engagement took place, sign and send to the nearest shipping master a full and accurate statement in the prescribed form, of every change which has taken place in his crew, and that statement shall be admissible in evidence.

Certificate as to agreement with crew.

106. (1) In the case of a foreign-going Indian ship or a home-trade Indian ship of two hundred tons gross or more, on the due execution of an agreement with the crew in accordance with this Act, and also when, in the case of a foreign-going Indian ship, the agreement is a running agreement, on compliance by the master before the second and every subsequent voyage made after the first commencement of the agreement with the provisions of this Act respecting that agreement, the shipping master shall grant the master of the ship a certificate to that effect.

(2) The master of every such ship shall, before proceeding to sea, produce that certificate to the customs collector whose duty it is to grant a port clearance.

(3) No customs collector shall clear any such ship outwards without the production of such certificate, and, if any such ship attempts to go to sea without a clearance, the customs collector may detain her until such certificate as aforesaid is produced.

(4) The master of every such ship shall, within forty-eight hours after the ship's arrival at the port in India at which the crew is to be discharged, deliver such agreement to a shipping master at the port; and such shipping master shall thereupon give to the master a certificate of such delivery; and no customs collector shall clear any such ship inwards without the production of such certificate.

Copy of agreement to be made accessible to the crew.

107. The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement and, if necessary, a certified translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew.

108. Every erasure, interlineation or alteration in any agreement with the crew (except additions made for the purpose of shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of—

Alteration in agreement with the crew.

(a) all the persons interested in such erasure, interlineation or alteration by the written attestation, if made in India, of some shipping master, or customs collector; or

(b) an Indian Consular Officer, if made out of India.

#### Employment of young persons

109. No person under fifteen years of age shall be engaged or carried to sea to work in any capacity in any ship, except—

Employment of children.

(a) in a school ship, or training ship, in accordance with the prescribed conditions; or

(b) in a ship in which all persons employed are members of one family; or

(c) in a home-trade ship of less than two hundred tons gross; or

(d) where such person is to be employed on nominal wages and will be in the charge of his father or other adult near male relative.

110. (1) Save as otherwise provided in sub-sections (2) and (3), no young person shall be engaged or carried to sea to work as a trimmer or stoker in any ship.

Engagement of young persons as trimmers or stokers.

(2) Sub-section (1) shall not apply—

(a) to any work of trimming or stoking done by a young person in a school ship or training ship in accordance with the prescribed conditions; or

(b) to any work of trimming or stoking done by a young person in a ship which is mainly propelled otherwise than by steam; or

(c) to the engagement or carrying to sea of a person over sixteen years of age to work as a trimmer or stoker on a coasting ship, provided he is employed in accordance with the prescribed conditions.

(3) Where in any port a trimmer or stoker is required for any ship other than a coasting ship, and no person over eighteen years of age is available, two young persons over sixteen years of age may be engaged and carried to sea to do the work which would otherwise have been done by one person over eighteen years of age.

(4) There shall be included in every agreement with the crew in ships to which this section applies a short summary of the provisions of this section.

Medical examination of young persons.

111. (1) Save as otherwise provided in sub-section (2), no young person shall be engaged or carried to sea to work in any capacity in any ship, unless there has been delivered to the master a certificate granted by a prescribed authority that the young person is physically fit to be employed in that capacity.

(2) Sub-section (1) shall not apply,—

(a) to the employment of a young person in a ship in which all persons employed are members of one family; or

(b) where the shipping master, on the ground of urgency, has authorised a young person to be engaged and carried to sea, without the certificate required by sub-section (1) being delivered to the master, and the young person is not employed beyond the first port at which the ship in which he is so engaged calls except in accordance with the provisions of sub-section (1).

(3) A certificate of physical fitness required under this section shall remain in force for one year only from the date on which it is granted.

Maintenance of list or register of young persons in a ship.

112. There shall be included in every agreement with the crew of every Indian ship and every other ship which engages young persons in India, a list of young persons who are members of the crew, together with particulars of the dates of their birth, and, in the case of any such ship where there is no agreement, the master shall keep a register of young persons with particulars of the dates of their birth and of the dates on which they became or ceased to be members of the crew.

113. (1) The Central Government may make rules prescribing—

Power to make rules respecting employment of young persons.

(a) the conditions of employment of young persons in any capacity in school ships and training ships, and the authorities by whom and the manner in which the inspection of their work shall be carried out;

(b) the conditions of employment of young persons as trimmers or stokers in coasting ships;

(c) the authorities whose certificates of physical fitness shall be accepted for the purposes of section 111; and

(d) the form of the register of young persons to be maintained in ships where there is no agreement with the crew.

(2) Rules under clause (b) of sub-section (1) shall be made after consultation with such organisations in India as the Central Government may consider to be most representative of the employers of seamen and of seamen.

*Engagement of seamen by masters of ships other than Indian ships*

114. (1) When the master of a ship other than an Indian ship engages a seaman at any port in India to proceed to any port outside India, he shall enter into an agreement with such seaman, and the agreement shall be made before a shipping master in the manner provided by this Act for the making of agreements in the case of foreign-going Indian ships.

Engagements  
between sea-  
men and mas-  
ters of ships  
other than  
Indian ships.

(2) All the provisions of this Act respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seaman.

(3) The master of a ship other than an Indian ship shall give to the shipping master a bond with the security of some approved person resident in India for such amount as may be fixed by the Central Government in respect of each seaman engaged by him at any port in India and conditioned for the due performance of such agreement and stipulations, and for the repayment to the Central Government of all expenses which may be incurred by it in respect of any such seaman who is discharged or left behind at any port out of India and becomes distressed and is relieved under the provisions of this Act:

Provided that the shipping master may waive the execution of a bond under this section where the owner of the ship has an agent at any port in India and such agent accepts liability in respect of all matters for which the master of the ship would be liable if he were to execute a bond under this section or may accept from the agent such security as may be approved by the Central Government.

(4) The fees fixed under section 90 shall be payable in respect of every such engagement, and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed under the said section 90.

Power to prohibit engagement of persons as seamen.

115. The Central Government or any officer authorised by it in this behalf, if satisfied that in the national interest or in the interests of seamen generally it is necessary so to do, may, by order in writing, prohibit the owner, master or agent of any ship other than an Indian ship specified in the order from engaging in India or in any specified part of India, any person to serve as a seaman on such ship.

Engagement of seamen outside India for Indian ships.

116. With respect to the engagement of seamen outside India, the following provisions shall have effect:—

When the master of an Indian ship engages a seaman at any port outside India, the provisions of this Act respecting agreements with the crew made in India shall apply subject to the following modifications:—

(a) at any such port having an Indian consular officer, the master shall, before carrying the seaman to sea, procure the sanction of the consular officer, and shall, if not contrary to any law in force in that port, engage the seaman before that officer;

(b) the master shall request the Indian consular officer to endorse upon the agreement an attestation to the effect that it has been signed in his presence and otherwise made as required by this Act, and that it has his sanction, and if the attestation is not made, the burden of proving that the engagement was made as required by this Act shall lie upon the master.

Power to board ships and master seamen.

117. For the purpose of preventing seamen from being taken on board any ship at any port in India contrary to the provisions of this Act, any shipping master or deputy or assistant shipping master or any director, deputy director or assistant director of the seamen's employment office, may enter at any time on board any such ship upon which he has reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein.

#### Discharge of seamen

Discharge before shipping master.

118. (1) When a seaman serving in a foreign-going ship is, on the termination of his engagement, discharged in India, he shall, whether the agreement with the crew be an agreement for the voyage or a running agreement, be discharged in the manner provided by this Act in the presence of a shipping master.

(2) The provisions of sub-section (1) shall apply in relation to the discharge of seamen serving in a home-trade Indian ship of two hundred tons gross or more as they apply in relation to the discharge of seamen serving in a foreign-going ship:

Provided that this sub-section shall not apply where a seaman is discharged from a ship under an agreement made in accordance with section 103 for service in two or more ships, for the purpose of being engaged in another ship to which the agreement relates.

(3) If the master, owner or agent of a home-trade ship, other than a ship to which the last preceding sub-section applies, so desires, the seamen of that ship may be discharged in the same manner as seamen discharged from a foreign-going ship.

119. (1) The master shall sign and give to a seaman discharged from his ship in India, either on his discharge or on payment of his wages, a certificate of his discharge in the prescribed form specifying the period of his service and the time and place of his discharge.

Certificate of discharge.

(2) The master shall also, upon the discharge of every certificated officer, whose certificate of competency has been delivered to and retained by him, return the certificate to the officer.

120. (1) When a seaman is discharged from a ship in India, the master shall furnish to the shipping master before whom the discharge is made a report in the prescribed form stating—

Certificate as to make of seamen.

- (a) the quality of the work of the seaman; or
- (b) whether the seaman has fulfilled his obligations under the agreement with the crew; or
- (c) that he declines to express an opinion on those particulars;

and the shipping master shall, if the seaman so desires, give to him or endorse on his certificate of discharge a copy of such report.

(2) A seaman who is entitled to a certificate of discharge under section 119 may, if he so desires, be granted by the master, in lieu of the certificate referred to in sub-section (1) of the said section or the report referred to in sub-section (1) of this section, a continuous discharge certificate specifying the period of his service together with an endorsement stating—

- (a) the quality of the work of the seaman; or

(b) whether the seaman has fulfilled his obligations under the agreement with the crew; or

(c) that he declines to express an opinion on those particulars;

and the master shall thereupon sign and give such continuous discharge certificate notwithstanding anything to the contrary contained in sub-section (1).

(3) If the master states that he declines to express an opinion on the particulars mentioned in clauses (a) and (b) of sub-section (1) or sub-section (2), he shall enter in the official log book his reasons for so declining.

Discharge  
and leaving  
behind of  
seamen by  
masters of  
Indian ships.

121. (1) The master of an Indian ship shall not—

(a) discharge a seaman before the expiration of the period for which he was engaged, unless the seaman consents to his discharge; or

(b) except in circumstances beyond his control, leave a seaman or apprentice behind;

without the authority of the officer specified in this behalf by the Central Government and the officer aforesaid shall certify on the agreement with the crew that he has granted such authority, and also the reason for the seaman being discharged or the seaman or apprentice being left behind.

(2) The officer aforesaid to whom application is made for authority in terms of sub-section (1), shall investigate the grounds on which the seaman is to be discharged or the seaman or apprentice left behind and may in his discretion grant or refuse to grant such authority:

Provided that he shall not refuse to grant his authority if he is satisfied that the seaman has without reasonable cause—

(a) failed or refused to join his ship or to proceed to sea therein; or

(b) been absent from his ship without leave, either at the commencement or during the progress of a voyage for a period of more than forty-eight hours.

(3) The officer aforesaid shall keep a record of all seamen or apprentices discharged or left behind with his authority; and whenever any charge is made against a seaman or apprentice under section 191, the fact that no such authority is so recorded shall be *prima facie* evidence that it was not granted.



122. (1) If a seaman or apprentice is left behind, the master shall enter in the official log book a statement of the amount due to the seaman or apprentice in respect of wages at the time when he was left behind and of all property left on board by him, and shall take such property into his charge. Wages and other property of seaman or apprentice left behind.

(2) Within forty-eight hours after the arrival of the ship at the port in India at which the voyage terminates, the master shall deliver to the shipping master—

(a) a statement of the amount due to the seaman or apprentice in respect of wages, and of all property left on board by him; and

(b) a statement, with full particulars, of any expenses that may have been caused to the master or owner of the ship by the absence of the seaman or apprentice, where the absence is due to a contravention by the seaman or apprentice of section 191;

and, if required by the shipping master to do so, shall furnish such vouchers as are reasonably required to verify the statements.

(3) The master shall at the time when he delivers the statements referred to in sub-section (2) to the shipping master also deliver to him the amount due to the seaman or apprentice in respect of wages and the property that was left on board by him, and the shipping master shall give to the master a receipt therefor in the prescribed form.

(4) The master shall be entitled to be reimbursed out of the wages or property referred to in clause (a) of sub-section (2) such expenses shown in the statement referred to in clause (b) of that sub-section as appear to the shipping master to be properly chargeable.

123. (1) When the service of a seaman or apprentice terminates without the consent of the said seaman or apprentice at a port outside India, and before the expiration of the period for which the seaman was engaged or the apprentice was bound, the master or owner of the ship shall, in addition to any other relative obligation imposed on either of them by this Act, make adequate provision for the maintenance of the seaman or apprentice according to his rank or rating, and for the return of that seaman or apprentice to a proper return port. Repatriation of seamen on termination of service at foreign port.

(2) If the master or owner fails without reasonable cause to comply with sub-section (1), the expenses of maintenance and of the journey to the proper return port shall, if defrayed by the seaman

or apprentice, be recoverable as wages due to him, and if defrayed by an Indian consular officer, be regarded as expenses falling within the provisions of sub-sections (3) and (4) of section 161.

*Explanation.*—Inability to provide the said expenses shall not, for the purposes of this sub-section, be regarded as reasonable cause.

Discharge of  
seamen on  
change  
of  
ownership.

124. (1) If an Indian ship is transferred or disposed of while she is at or on a voyage to any port outside India, every seaman or apprentice belonging to that ship shall be discharged at that port, unless he consents in writing in the presence of the Indian consular officer to complete the voyage in the ship if continued.

(2) If a seaman or apprentice is discharged from an Indian ship in terms of sub-section (1), the provisions of section 123 shall apply as if the service of the seaman or apprentice had terminated without his consent and before the expiration of the period for which the seaman was engaged or the apprentice was bound.

(3) Every seaman or apprentice discharged in terms of sub-section (1) shall, if the voyage for which he was engaged is not continued, be entitled to the wages to which he would have been entitled if his service had been wrongfully terminated by the owner before the expiration of the period for which the seaman was engaged or the apprentice was bound.

#### *Payment of wages*

Master  
deliver  
account  
of  
wages.

125. (1) The master of every ship shall, before paying off or discharging a seaman under this Act, deliver at the time and in the manner provided by this Act a full and true account in the form prescribed of the seaman's wages and of all deductions to be made therefrom on any account whatever.

(2) The said account shall be delivered, either to the seaman himself, at or before the time of his leaving the ship, or to the shipping master not less than twenty-four hours before the discharge or payment off.

Disrating of  
seamen.

126. (1) Where the master of a ship disrates a seaman, he shall forthwith enter or cause to be entered in the official log book a statement of the disrating, and furnish the seaman with a copy of the entry; and any reduction of wages consequent on the disrating shall not take effect until the entry has been so made and the copy so furnished.

(2) Any reduction of wages consequent on the disrating of a seaman shall be deemed to be a deduction from wages within the meaning of sections 125 and 127.

127. (1) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of this Act except in respect of a matter happening after such delivery.

Deductions from wages of seaman.

(2) The master shall during the voyage enter the various matters in respect of which the deductions are made, with the amount of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce the book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to that payment.

128. (1) Where a seaman is discharged in India before a shipping master, he shall receive his wages through, or in the presence of, the shipping master unless a competent court otherwise directs.

Payment of wages before shipping master.

(2) If the master or owner of a home-trade ship of less than two hundred tons gross so desires, the seamen of that ship may receive their wages in the same manner as seamen discharged from a foreign-going ship, or from a home-trade ship of two hundred tons gross or more.

129. (1) The master, owner or agent of every ship shall pay to every seaman his wages within four days after the seaman's discharge, and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him.

Time of payment of wages.

(2) If a master, owner or agent fails without reasonable cause to make payment at that time, he shall pay to the seaman such sum not exceeding the amount of two days' pay for each of the days commencing from the day of discharge during which payment is delayed as the shipping master may in each case decide, but the sum so payable shall not exceed ten days' double pay.

(3) Any sum payable under this section may be recovered as wages.

130. (1) Where a seaman is discharged and the settlement of his wages completed before a shipping master, the seaman shall sign in the presence of the shipping master a release in the form prescribed of all claims in respect of the past voyage or engagement, and the release shall also be signed by the master, owner or agent of the ship and attested by the shipping master.

Settlement of wages.

(2) The release so signed and attested shall be retained by the shipping master and shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement but shall not debar a claim to compensation for personal injury caused by accident arising out of and in the course of employment.

(3) A copy of the release, certified under the hand of the shipping master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any question touching such claims, and shall have all the effect of the original of which it purports to be a copy.

(4) No payment, receipt or settlement of the wages of a seaman made otherwise than in accordance with this Act shall operate or be admitted as evidence of the release or satisfaction of any claim in respect of such wages.

(5) Upon any payment being made by a master before a shipping master, the shipping master shall, if required, sign and give to the master a statement of the whole amount so paid, and the statement shall, as between the master and his employer, be admissible as evidence that the master has made the payments therein mentioned.

(6) Notwithstanding anything contained in the preceding subsections a seaman may except from the release signed by him any specified claim or demand against the master or owner of the ship, and a note of any claim or demand so excepted shall be entered upon the release; and the release shall not operate as a discharge and settlement of any claim or demand so noted, nor shall subsection (4) apply to any payment, receipt or settlement made with respect to any such claim or demand.

Master to give facilities to seaman for remitting wages.

131. Where a seaman expresses to the master of the ship his desire to have facilities afforded to him for remitting any part of the balance of the wages due to him to a savings bank or to a near relative, the master shall give to the seaman all reasonable facilities for so doing so far as regards so much of the balance as is within the limits, if any, specified in this behalf by the Central Government, but shall be under no obligation to give those facilities while the ship is in port if the sum will become payable before the ship leaves port or otherwise than conditionally on the seaman going to sea in the ship.

Decision of questions by shipping masters.

132. (1) Where under the agreement with the crew any dispute arises at any port in India between the master, owner or agent of a ship and any of the crew of the ship, it shall be submitted to the shipping master,—

(a) where the amount in dispute does not exceed three hundred rupees, at the instance of either party to the dispute;

(b) in any other case, if both parties to the dispute agree in writing to submit the dispute to the shipping master.

(2) The shipping master shall hear and decide the dispute so submitted and an award made by him upon the submission shall be

conclusive as to the rights of the parties, and any document purporting to be such submission or award shall be *prima facie* evidence thereof.

(3) An award made by a shipping master under this section may be enforced by a magistrate in the same manner as an order for the payment of wages made by such magistrate under this Act.

10 of 1940.

(4) Nothing in the Arbitration Act, 1940, shall apply to any matter submitted to a shipping master for decision under this section.

133. In any proceedings under this Act before a shipping master relating to the wages, claims or discharge of a seaman, the shipping master may require the owner, master or agent or any mate or other member of the crew to produce any log books, papers, or other documents in his possession or power relating to any matter in question in the proceedings, and may require the attendance of and examine any of those persons being then at or near the place on the matter.

Power of shipping master to require production of ship's papers.

134. Where a seaman or apprentice has agreed with the master of a ship for payment of his wages in Indian or other currency, any payment of, or on account of, his wages, if made in any currency other than that stated in the agreement, shall, notwithstanding anything in the agreement, be made at the rate of exchange for the time being current at the place where the payment is made.

Rule as to payment to seamen in foreign currency.

*Advance and allotment of wages*

135. (1) Any agreement with the crew may contain a stipulation for payment to a seaman, conditional on his going to sea in pursuance of the agreement of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement.

Advance of wages.

(2) Save as aforesaid, an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman, conditional on his going to sea from any port in India shall be void, and no money paid in satisfaction or in respect of any such agreement shall be deducted from the seaman's wages, and no person shall have any right of action, suit or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

(3) No seaman, who has been lawfully engaged and has received under his agreement an advance payment, wilfully or through misconduct, shall fail to attend his ship or desert therefrom before the payment becomes really due to him.

(4) Where it is shown to the satisfaction of a shipping master that a seaman lawfully engaged has wilfully or through misconduct failed to attend his ship, the shipping master shall report the matter to the Director-General who may direct that any of the seaman's certificates of discharge referred to in sections 119 and 120 shall be withheld for such period as he may think fit; and while a seaman's certificate of discharge is so withheld, the Director-General or any other person having the custody of the necessary documents may, notwithstanding anything in this Act, refuse to furnish copies of any such certificate or certified extracts therefrom.

Allotment notes respecting seamen's wages payable to him in favour of any such relative or for any such purpose approved in this behalf by the Central Government by general or special order, as may be specified in the note.

136. (1) A seaman may require that a stipulation be inserted in the agreement for the allotment, by means of an allotment note, of any part (not exceeding three-fourths) of the amount of the monthly wages payable to him in favour of any such member of his family or any such relative or for any such purpose approved in this behalf by the Central Government by general or special order, as may be specified in the note.

Rule as to payment to seamen in foreign currency.

(2) Every shipping master or other officer before whom the seaman is engaged shall, after the seaman has signed the agreement, inquire from the seaman whether he requires such a stipulation for the allotment of his wages by means of an allotment note.

(3) Whenever a seaman requires such a stipulation, the stipulation shall be inserted in the agreement of the crew, and such stipulation shall be deemed to have been agreed to by the master.

(4) An allotment note shall be in the prescribed form and shall be signed by the owner, master or agent of the ship and by the seaman.

Advance of Commage and payment of sums allotted.

(1) A payment under an allotment note shall begin at the expiry of one month from the date of the agreement, and shall be made at the expiration of every subsequent month after the first month, and shall be made only in respect of the wages earned before the date of payment.

(2) The owner, master or agent who has authorised the drawing of an allotment note shall pay to the shipping master on demand the sums due under the note, and, if he fails to do so, the shipping master may sue for and recover the same with costs.

Provided that no such sum shall be recoverable if it is shown to the satisfaction of the court trying the case that the seaman has forfeited or ceased to be entitled to the wages out of which the allotment was to have been paid, but the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the court either by the official statement of the change in the crew caused by his absence made and signed by the master

as by this Act is required, or by a certified copy of some entry in the official log book to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the court may consider sufficient.

(3) The shipping master on receiving any such sum as aforesaid shall pay it over to the person named in that behalf in the allotment note.

(4) All such receipts and payments shall be entered in a book to be kept for the purpose, and all entries in the said book shall be authenticated by the signature of the shipping master.

(5) The said book shall at all reasonable times be open to the inspection of the parties concerned.

*Rights of seamen in respect of wages*

138. A seaman's right to wages and provisions shall be taken to begin either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

139. (1) A seaman shall not by any agreement forfeit his lien on the ship or be deprived of any remedy for the recovery of his wages to which, in the absence of the agreement, he would be entitled, and shall not by any agreement abandon his right to wages in case of the loss of the ship or abandon any right that he may have or obtain in the nature of salvage, and every stipulation in any agreement inconsistent with any provisions of this Act shall be void.

(2) Nothing in this section shall apply to a stipulation made by the seamen belonging to any ship which according to the terms of the agreement is to be employed on salvage service with respect to the remuneration to be paid to them for salvage service to be rendered by that ship to any other ship.

140. (1) The right to wages shall not depend on the earning of freight, and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same notwithstanding that freight has not been earned, but in all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages.

(2) Where a seaman or apprentice who would but for death be entitled by virtue of this section to demand and recover any wages

dies before the wages are paid, they shall be paid and applied in manner provided by this Act with respect to the wages of a seaman who dies during a voyage.

Wages on termination of service by wreck, illness, etc.

141. (1) Where the service of any seaman engaged under this Act terminates before the date contemplated in the agreement by reason of the wreck, loss or abandonment of the ship or by reason of his being left on shore at any place outside India under a certificate granted under this Act of his unfitness or inability to proceed on the voyage, the seaman shall be entitled to receive—

(a) in the case of wreck, loss or abandonment of the ship—

(i) wages at the rate to which he was entitled at the date of termination of his service for the period from the date his service is so terminated until he is returned to and arrives at a proper return port:

Provided that the period for which he shall be entitled to receive wages shall be not less than one month; and

(ii) compensation for the loss of his effects—

(a) in the case of a seaman employed on a home-trade ship, of not less than one month's wages; and

(b) in the case of a seaman employed on a foreign-going ship, of not less than three months' wages;

(b) in the case of unfitness or inability to proceed on the voyage, wages for the period from the date his service is terminated until he is returned to and arrives at a proper return port.

(2) A seaman shall not be entitled to receive wages under sub-clause (i) of clause (a) of sub-section (1) in respect of any period during which—

(a) he was, or could have been, suitably employed; or

(b) through negligence he failed to apply to the proper authority for relief as a distressed or destitute seaman.

(3) Any amount payable by way of compensation under sub-clause (ii) of clause (a) of sub-section (1) shall be deposited with the shipping master at the port of engagement in India for payment to the seaman, or, in the case of a deceased seaman, to his legal heirs.

Wages not to accrue during absence without leave, refusal to work or imprisonment.

142. (1) A seaman or apprentice shall not be entitled to wages—

(a) for any period during which he is absent without leave from his ship or from his duty; or

(b) for any period during which he unlawfully refuses or neglects to work when required; or

(c) unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned.



(2) A seaman or apprentice shall not be disentitled to claim wages for any period during which he has not performed his duty if he proves that he was incapable of doing so by reason of illness, hurt or injury, unless it be proved that—

(a) his illness, hurt or injury was caused by his own wilful act or default or his own misbehaviour; or

(b) his illness was contracted or his hurt or injury was sustained at a proper return port and was not attributable to his employment; or

(c) he has unreasonably refused to undergo medical or surgical treatment for his illness, hurt or injury involving no appreciable risk to his life.

143. (1) If a seaman having signed an agreement is discharged, otherwise than in accordance with the terms thereof, without fault on his part justifying the discharge and without his consent, he shall be entitled to receive from the master, owner or agent, in addition to any wages he may have earned, as due compensation for the damage caused to him by the discharge, such sum as the shipping master may fix having regard to the circumstances relating to the discharge:

Compensation to seamen for premature discharge.

Provided that the compensation so payable shall not exceed—

(a) in the case of a seaman who has been discharged before the commencement of a voyage, one month's wages; and

(b) in the case of a seaman who has been discharged after the commencement of a voyage, three months' wages.

(2) Any compensation payable under this section may be recovered as wages.

144. (1) As respects wages due or accruing to a seaman or apprentice—

Restriction on sale of and charge upon wages.

(a) they shall not be subject to attachment by order of any court;

(b) an assignment thereof made prior to the accruing thereof shall not bind the person making the same;

(c) a power-of-attorney or authority for the receipt thereof shall not be irrevocable;

(d) a payment of wages to a seaman or apprentice shall be valid in law notwithstanding any previous assignment of those wages or any attachment thereof or encumbrance thereon.

(2) The provisions of clauses (b) and (c) of sub-section (1) shall not apply to so much of the wages of a seaman as have been or are hereafter assigned by way of contribution to any fund or scheme approved in this behalf by the Central Government, the main purpose of which is the provision for seamen of health or social insurance benefits and the provisions of clauses (a) and (d) of sub-section (1) shall not apply to anything done or to be done for giving effect to such an assignment.

(3) Nothing in this section shall affect the provisions of this Act or any other law for the time being in force with respect to allotment notes.

#### *Mode of recovering wages*

Summary proceedings for wages.

145. (1) A seaman or apprentice or a person duly authorised on his behalf may, as soon as any wages due to him become payable, apply to any magistrate exercising jurisdiction in or near the place at which his service has terminated or at which he has been discharged, or at which any person upon whom the claim is made is or resides, and the magistrate shall try the case in a summary way and the order made by the magistrate in the matter shall be final.

(2) An application under sub-section (1) may also be made by any officer authorised by the Central Government in this behalf by general or special order.

Restrictions on suits for wages.

146. A proceeding for the recovery of wages due to a seaman or apprentice shall not be instituted by or on behalf of any seaman or apprentice in any civil court except where—

(a) the owner of the ship has been declared insolvent;

(b) the ship is under arrest or sold by the authority of any court;

(c) a magistrate refers a claim to the court.

Wages not recoverable outside India in certain cases.

147. Where a seaman is engaged for a voyage which is to terminate in India, he shall not be entitled to sue in any court outside India for wages unless he is discharged with such sanction as is required by this Act, and with the written consent of the master, or proves such ill-usage on the part, or by the authority, of the

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master, as to warrant a reasonable apprehension of danger to his life if he were to remain on board.

148. (1) The master of a ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages as a seaman has under this Act or by any law or custom. Remedies of master for wages, disbursements, etc.

(2) The master of a ship and every person lawfully acting as master of a ship by reason of the decease or incapacity from illness of the master of the ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of disbursements or liabilities properly made or incurred by him on account of the ship as a master has for the recovery of his wages.

(3) If in any proceeding in any court touching the claim of a master in respect of such wages, disbursements or liabilities any set-off is claimed or any counterclaim is made, the court may enter into, and adjudicate upon, all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding and may direct payment of any balance found to be due.

*Power of courts to rescind contracts*

149. Where a proceeding is instituted in any court in relation to any dispute between master, owner or agent of a ship and a seaman or apprentice, arising out of or incidental to their relation as such, or is instituted for the purpose of this section, the court, if, having regard to all the circumstances of the case, it thinks it just to do so, may rescind any contract between the master, owner or agent and the seaman or apprentice, upon such terms as the court may think just, and this power shall be in addition to any other jurisdiction which the court can exercise independently of this section. Power of court to rescind contract between master, owner or agent and seaman or apprentice.

*Disputes between seamen and employers*

150. (1) Where the Central Government is of opinion that any dispute between seamen or any class of seamen or of any union of seamen and the owners of ships in which such seamen are employed or are likely to be employed exists or is apprehended and such dispute relates to any matter connected with or incidental to the employment of the seamen, the Central Government may, by notification in the Official Gazette, constitute a tribunal consisting of one or more persons, and refer the dispute to the tribunal for adjudication. Power to refer disputes between seamen and their employers to tribunals.

(2) The tribunal so constituted shall have power to regulate its own procedure and shall have the same powers as are vested in a

civil court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters:—

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents;
- (c) issuing commissions for the examination of witnesses;
- (d) any other matter which may be prescribed;

and any proceeding before the tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

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(3) No party to a dispute shall be entitled to be represented by a legal practitioner in any proceeding before the tribunal except with the consent of the other party or parties to the proceeding and with the leave of the tribunal.

(4) The tribunal shall dispose of the reference expeditiously and shall, as soon as practicable on the conclusion of the proceedings, submit its award to the Central Government.

(5) On receipt of the award, the Central Government shall cause it to be published and the award shall become enforceable on the expiry of thirty days from the date of such publication:

Provided that where the Central Government is of opinion that it will be inexpedient on public grounds to give effect to the award or any part of it, it may before the expiry of the said period of thirty days by order in the Official Gazette either reject the award or modify it, and where the Central Government does so, the award shall not become enforceable or shall become enforceable subject to the modifications, as the case may be.

(6) An award which has become enforceable under this section shall be binding on—

- (a) all parties to the dispute;
- (b) where any party to the dispute is the owner of the ship, his heirs, successors, or assigns.

(7) Save as otherwise provided in the award, an award shall remain in operation for a period of one year from the date on which it becomes enforceable and shall thereafter continue to remain in operation until a period of two months has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating its intention to terminate the award.

(8) Any money due to a seaman from the owner of a ship under an award may be recovered as wages.

(9) Nothing contained in the Industrial Disputes Act, 1947, shall apply to any dispute between seamen or any class of seamen or any union of seamen and the owners of ships in which such seamen are employed or are likely to be employed.

151. During the pendency of proceedings under section 150,—

(a) no seamen or class of seamen or union of seamen shall go or remain on strike or otherwise act in a manner prejudicial to the normal operation of the ships in which the seamen are employed or are likely to be employed; and

Conditions of service, etc., to remain unchanged during pendency of proceedings before tribunal.

(b) no owner of a ship shall—

(i) alter to the prejudice of the seamen concerned in the dispute, the conditions of service applicable to them immediately before the commencement of such proceedings; or

(ii) discharge or punish any seaman in respect of any matter connected with the dispute.

*Property of deceased seamen and apprentices*

152. (1) If any seaman or apprentice engaged on any ship, the voyage of which is to terminate in India, dies during that voyage, the master of the ship shall report the death to the next-of-kin of the seaman or apprentice and to the shipping master at his port of engagement and shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.

Master to take charge of the effects of deceased seamen.

(2) The master shall thereupon enter in the official log book the following particulars, namely:—

(a) a statement of the amount of money and a detailed description of the other effects;

(b) a statement of the sum due to the deceased for wages and of the amount of deduction, if any, to be made from the wages.

(3) The said money, balance of wages and other effects are in this Act referred to as the property of the seaman or apprentice.

153. (1) If any seaman or apprentice engaged on any ship, the voyage of which is to terminate in India, dies during that voyage and the ship before coming to a port in India touches and remains for forty-eight hours at some port elsewhere, the master shall report the case to the Indian consular officer at such port and shall give to the officer any information he requires as to the destination of the ship and probable length of the voyage.

Dealing with and account of property of seamen who die during voyage.

(2) The Indian consular officer may, if he thinks it expedient, require the property of the seaman or apprentice to be delivered and

paid to him and shall thereupon give to the master a receipt therefor and endorse under his hand upon the agreement with the crew such particulars with respect thereto as the Central Government may require.

(3) The receipt shall be produced by the master to the shipping master within forty-eight hours after his arrival at his port of destination in India.

(4) Where a seaman or apprentice dies as aforesaid and the ship proceeds at once to a port in India without touching and remaining as aforesaid at a port elsewhere or the Indian consular officer does not require the delivery and payment of the property as aforesaid, the master shall, within forty-eight hours after his arrival at his port of destination in India, pay and deliver the property to the shipping master at that port.

(5) A deduction claimed by the master in such account shall not be allowed unless verified by an entry in the official log book, and also by such other vouchers, if any, as may be reasonably required by the shipping master.

(6) A shipping master in India shall grant to a master upon due compliance with such provisions of this section as relate to acts to be done at the port of destination a certificate to that effect.

Master to pay and deliver property of deceased seamen.

154. (1) If the master of a ship fails to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman or apprentice, or to making in the official log book the proper entries relating thereto, or to the payment or delivery of such property, he shall be accountable for such property to the shipping master as aforesaid, and shall pay and deliver the same accordingly.

(2) The property may be recovered in the same court and manner in which the wages of seamen may be recovered under this Act.

Property of deceased seaman left abroad but not on board ship.

155. If any seaman or apprentice on an Indian ship, or engaged in India on any other ship, the voyage of which is to terminate in India, dies at any place outside India leaving any money or effects not on board the ship, the Indian consular officer at or near the place shall claim and take charge of such money and other effects (hereinafter referred to as the property of a deceased seaman or apprentice).

Dealing with property of deceased seamen.

156. (1) An Indian consular officer or a shipping master to whom the effects of a deceased seaman or apprentice are delivered or who takes charge of such effects under this Act may, if he thinks fit, sell

the effects, and the proceeds of any such sale shall be deemed to form part of the property of the deceased seaman or apprentice.

(2) Before selling any valuables comprised in the said effects, such officer or shipping master shall endeavour to ascertain the wishes of the next-of-kin of the deceased seaman or apprentice as to the disposal of such valuables and shall, if practicable and lawful, comply with such wishes.

(3) An Indian consular officer to whom any property of a deceased seaman or apprentice is delivered or who takes charge of any such property under this Act shall remit the property to the shipping master at the port of engagement of the deceased seaman or apprentice in such manner and shall render such accounts in respect thereof as may be prescribed.

157. (1) Where a seaman or apprentice is lost with the ship to which he belongs, the Central Government or such officer as the Central Government may appoint in this behalf may recover the wages and the compensation due to him from the owner, master or agent of the ship in the same court and in the same manner in which seamen's wages are recoverable, and shall deal with those wages in the same manner as with the wages and compensation due to other deceased seamen or apprentices under this Act.

Recovery of wages, etc., of seamen lost with their ship.

(2) In any proceeding for the recovery of the wages and compensation, if it is shown by some official records or by other evidence that the ship has, twelve months or upwards before the institution of the proceeding, left any port, she shall, unless it is shown that she has been heard of within twelve months after the departure, be deemed to have been lost with all hands on board either immediately after the time she was last heard of or at such later time as the court hearing the case may think probable.

158. If a seaman or apprentice dies in India and is at the time of his death entitled to claim from the master or owner of the ship in which he has served any effects or unpaid wages, the master, owner or agent shall pay and deliver or account for such property to the shipping master at the port where the seaman or apprentice was discharged or was to have been discharged or to such other officer as the Central Government may direct.

Property of seamen dying in India.

159. Where any property of a deceased seaman or apprentice is paid or delivered to a shipping master, the shipping master, after deducting for expenses incurred in respect of that seaman or apprentice or of his property such sums as he thinks proper to allow, may—

Payment over of property of deceased seaman by shipping master.

(a) pay and deliver the residue to any claimants who can prove themselves to the satisfaction of the said shipping master

to be entitled thereto, and the said shipping master shall be thereby discharged from all further liability in respect of the residue so paid or delivered; or

(b) if he thinks fit so to do, require probate or letters of administration or a certificate under the Indian Succession Act, 1925, to be taken out, and thereupon pay and deliver the residue to the legal representatives of the deceased. 39 of 1925

Disposal of unclaimed property of deceased seamen.

160. (1) Where no claim to the property of a deceased seaman or apprentice received by a shipping master is substantiated within one year from the receipt thereof by such shipping master, the shipping master shall cause such property to be sold and pay the proceeds of the sale into the public account of India.

(2) If, after the proceeds of the sale having been so paid, any claim is made thereto, then, if the claim is established to the satisfaction of the shipping master, the amount or so much thereof as shall appear to him to be due to the claimant, shall be paid to him, and if the claim is not so established, the claimant may apply by petition to the High Court, and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just:

Provided that, after the expiration of six years from the receipt of such property by the shipping master, no claim to such property shall be entertained without the sanction of the Central Government.

#### *Distressed seamen*

Relief and maintenance of distressed seamen.

161. (1) The Indian consular officer at or near the place where a seaman is in distress shall, on application being made to him by the distressed seaman, provide in accordance with the rules made under this Act for the return of that seaman to a proper return port, and also for the said seaman's necessary clothing and maintenance until his arrival at such port.

(2) A distressed seaman shall not have any right to be maintained or sent to a proper return port except to the extent and on the conditions provided for in the rules.

(3) All repatriation expenses, other than excepted expenses, incurred by or on behalf of the Central Government in accordance with the provisions of this Act shall constitute a debt due to the Central Government for which the owner or agent of the ship to which the seaman in respect of whom they were incurred belonged at the time of his discharge or other event which resulted in his becoming a distressed seaman shall be liable; and the owner or agent shall not be entitled to recover from the seaman any amount



paid by him to the Central Government in settlement or part settlement of such debt.

(4) All excepted expenses incurred by or on behalf of the Central Government in accordance with the provisions of this Act shall constitute a debt due to the Central Government for which the seaman in respect of whom they were incurred and the owner or agent of the ship to which that seaman belonged at the time of his discharge or other event which resulted in his becoming a distressed seaman shall be jointly and severally liable; and the owner or agent shall be entitled to recover from the seaman any amount paid by him to the Central Government in settlement or part settlement of such debt, and may apply to the satisfaction of his claim so much as may be necessary of any wages due to the seaman.

(5) All excepted expenses incurred in accordance with the provisions of this Act in respect of any distressed seaman by the owner or agent of the ship to which he belonged at the time of his discharge or other event which resulted in his becoming a distressed seaman shall constitute a debt due to the owner or agent for which the seaman shall be liable; and the owner or agent may apply to the satisfaction of his claim so much as may be necessary of any wages due to the seaman; but he shall not be entitled to recover from the seaman any repatriation expenses other than excepted expenses.

(6) In any proceedings for the recovery of any expenses which in terms of sub-section (3) or sub-section (4) are a debt due to the Central Government, the production of an account of the expenses and proof of payment thereof by or on behalf of or under the direction of the Central Government shall be *prima facie* evidence that the expenses were incurred in accordance with the provisions of this Act by or on behalf of the Central Government.

(7) Any debt which may be due to the Central Government under this section may be recovered by any officer authorised by it in writing in this behalf from the person concerned in the same manner as wages are recoverable under section 145.

162. (1) A seaman may be sent to a proper return port by any reasonable route either by sea or land or if necessary by air or partly by any one and partly by any other of these modes.

Mode or providing for return of seamen to proper return-port.

(2) Provision shall be made for the return of the seaman as to the whole of the route if it is by sea or as to any part of the route which is by sea by placing the seaman on board an Indian ship which

is in want of men to make up its complement, or, if that is not practicable, by providing the seaman with a passage in any ship, Indian or foreign, or with the money for his passage, and, as to any part of the route which is by land or air, by paying the expenses of his journey and of his maintenance during the journey or providing him with means to pay those expenses.

(3) Where the master of a ship is required under this Part to provide for the return of a discharged seaman to a proper return port, the master may, instead of providing the seaman's passage or the expenses of his journey or of providing the seaman with means to pay his passage or those expenses, deposit with the proper officer such sum as that officer considers sufficient to defray the expenses of the return of the seaman to a proper return port.

Receiving  
distressed  
seamen on  
ships.

163. (1) The master of an Indian ship shall receive on board his ship and afford passage and maintenance to all distressed seamen whom he is required by the Indian consular officer to take on board his ship, and shall during the passage provide every such distressed seaman with accommodation equal to that normally provided for the crew of the ship and subsistence, proper to the rank or rating of the said distressed seaman.

(2) The master of a ship shall not be required to receive on board his ship a distressed seaman in terms of this section, if the Indian consular officer is satisfied that accommodation is not and cannot be made available for such seaman.

Provisions  
as to taking  
distressed  
seamen on  
ships.

164. (1) Where a distressed seaman is for the purpose of his return to a proper return port placed on board an Indian ship, the Indian consular officer by whom the seaman is so placed shall endorse on the agreement with the crew of the ship particulars of the seaman so placed on board.

(2) On the production of a certificate signed by the Indian consular officer by whose directions any such distressed seamen were received on board, specifying the number and names of the distressed seamen and the time when each of them was received on board, and on a declaration made by the master stating the number of days during which each distressed seaman has received subsistence and stating the full complement of his crew and the actual number of seamen employed on board his ship and every variation in that number, whilst the distressed seamen received maintenance, the master shall be entitled to be paid in respect of the subsistence and passage of every seaman so conveyed and provided for by him, exceeding the number, if any, wanted to make up the complement of his crew, such sum for each day as the Central Government may by rules made in this behalf allow.

165. In any proceeding under this Part a certificate of the Central Government or of such officer as the Central Government may specify in this behalf to the effect that any seaman named therein is distressed shall be conclusive evidence that such seaman is distressed within the meaning of this Act.

What shall be evidence of distress.

166. If any question arises as to what return port a seaman is to be sent in any case or as to the route by which he should be sent, that question shall be decided by the Indian consular officer concerned, and in deciding any question under this provision the Indian consular officer shall have regard both to the convenience of the seaman and to the expense involved, and also, where that is the case, to the fact that an Indian ship which is in want of men to make up its complement is about to proceed to a proper return port.

Indian consular officer to decide return port to which or route by which seaman is to be sent.

167. The Central Government may make rules with respect to the relief, maintenance and return to a proper return port of seamen found in distress in any place out of India and with respect to the circumstances in which, and the conditions subject to which, seamen may be relieved and provided with passages under this Part, and generally to carry out the provisions of this Part relating to distressed seamen.

Power to make rules with respect to distressed seamen.

*Provisions, health and accommodation*

168. (1) All Indian ships and all ships upon which seamen have been engaged shall have on board sufficient provisions and water of good quality and fit for the use of the crew on the scale specified in the agreement with the crew.

Ships to have sufficient provisions and water.

(2) If any person making an inspection under section 176 finds the provisions or water to be of bad quality and unfit for use or deficient in quantity, he shall signify it in writing to the master of the ship and may, if he thinks fit, detain the ship until the defects are remedied to his satisfaction.

(3) The master shall not use any provisions or water so signified to be of bad quality and shall in lieu of such provisions or water, provide other proper provisions or water and he shall, if the provisions or water be signified to be deficient in quantity, procure the requisite quantity of any provisions or water to cover the deficiency.

(4) The person making the inspection shall enter a statement of the result of the inspection in the official log book, and shall, if he is not the shipping master, send a report thereof to the shipping master and that report shall be admissible in evidence in any legal proceeding.

(5) If the inspection was made in pursuance of a request by the members of the crew and the person making the inspection certifies in the statement of the result of the inspection that the complaint was false and either frivolous or vexatious, every member of the crew who made the request shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

(6) The master of the ship and any other person having charge of any provisions or water liable to inspection under this section shall give the person making the inspection every reasonable facility for the purpose.

Allowances  
for short  
or bad  
provisions.

169. (1) In either of the following cases, that is to say,—

(a) if during the voyage the allowance of any of the provisions for which a seaman has by his agreement stipulated is reduced, or

(b) if it is shown that any of those provisions are or have during the voyage been bad in quality or unfit for use,

the seaman shall receive by way of compensation for that reduction or bad quality according to the time of its continuance, sums in accordance with such scale as may be prescribed, to be paid to him in addition to, and to be recoverable as, wages.

(2) If it is shown to the satisfaction of the court before which the case is tried that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the court shall take those circumstances into consideration in making an order.

Foreign-  
going Indian  
ship to carry  
duly certifi-  
cated cook.

170. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify, every foreign-going Indian ship of such tonnage as may be prescribed shall be provided with, and shall carry, a cook duly certificated under this Act.

(2) The Central Government may make rules specifying the qualifications, experience or sea service which may be required from persons who wish to obtain certificates of competency as cooks under this Act, and the conditions under which any such certificate may be granted, cancelled or suspended.

Weights and  
measures on  
board.

171. The master of a ship shall keep on board proper weights and measures for determining the quantities of the several provisions and articles served out and shall allow the same to be used

at the time of serving out the provisions and articles in the presence of witnesses whenever any dispute arises about the quantities.

172. (1) The owner of every ship of over five hundred tons gross shall supply or cause to be supplied to every seaman for his personal use, bedding, towels, mess utensils and other articles according to such scale as may be prescribed; and different scales may be prescribed in respect of different classes of ships.

Beddings, towels, medicines, medical stores, etc., to be provided and kept on board certain ships.

(2) All foreign-going Indian ships and all home-trade ships of two hundred tons gross or more shall have always on board a sufficient supply of medicines, medical stores, appliances and first aid equipment suitable for diseases and accidents likely to occur on voyages according to such scale as may be prescribed.

(3) It shall be the duty of the port health officer or such other person as the Central Government may appoint in this behalf to inspect the medicines, medical stores and appliances with which a ship is required to be provided.

173. (1) Every foreign-going ship carrying more than the prescribed number of persons (including the crew), shall have on board as part of her complement a medical officer possessing such qualifications as may be prescribed.

Certain ships to carry medical officer.

(2) Nothing in this section shall apply to an unberthed passenger ship or a pilgrim ship.

174. (1) If the master of an Indian ship, or a seaman or apprentice, receives any hurt or injury or suffers from any illness (not being a hurt, injury or illness due to his own wilful act or default or to his own misbehaviour), resulting in his being discharged or left behind at a place other than his proper return port, the expenses of providing the necessary surgical and medical advice, attendance and treatment and medicine, and also the expenses of the maintenance of the master, seaman or apprentice until he is cured, or dies, or is brought back to the port from which he was shipped or other port agreed upon after receiving the necessary medical treatment, and of his conveyance to that port, and in case of death, the expenses, if any, of his burial or cremation shall be defrayed by the owner of the ship without any deduction on that account from his wages.

Expenses of medical attendance in case of illness

(2) If the master, seaman or apprentice is on account of any illness or injury temporarily removed from his ship, at a port other than his proper return port, for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently

returns to his duty, the expenses of removal and of providing the necessary surgical and medical advice, attendance and treatment and medicine and of his maintenance while away from the ship, shall be defrayed in like manner.

(3) The expenses of all medicines, and surgical and medical advice, attendance and treatment, given to a master, seaman or apprentice while on board his ship, shall be defrayed in like manner.

(4) In all other cases any reasonable expenses duly incurred by the owner for any master, seaman or apprentice in respect of illness, shall, if proved to the satisfaction of the Indian consular officer or a shipping master, be deducted from the wages of the master, seaman or apprentice.

(5) Where any expenses referred to in this section have been paid by the master, seaman or apprentice himself, the same may be recovered as if they were wages duly earned, and, if any such expenses are paid by the Government, the amount shall be a charge upon the ship and may be recovered with full costs of suit by the Central Government.

Accommodation for seamen.

175. (1) The Central Government may, subject to the condition of previous publication, make rules with respect to the crew accommodation to be provided in ships of any class specified in the rules.

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

(a) the minimum space for each person which must be provided in any ship to which the rules apply by way of sleeping accommodation for seamen and apprentices and the maximum number of persons by whom any specified part of such sleeping accommodation may be used;

(b) the position in any such ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;

(c) the submission to such authority as may be specified in this behalf of plans and specifications of any works proposed to be carried out for the provision or alteration of any such accommodation and the authorisation of that authority to inspect any such works;

(d) the maintenance and repair of any such accommodation and the prohibition or restriction of the use of any such accommodation for purposes other than those for which it is designed;

(e) the manner as to how ships registered or under construction at the commencement of any rules made under this section may be dealt with after such commencement;

and such rules may make different provisions in respect of different classes of ships and in respect of crew accommodation provided for different classes of persons.

(3) If any person making an inspection under section 176 finds that the crew accommodation is insanitary or is not in accordance with the provisions of this Act, he shall signify it in writing to the master of the ship and may, if he thinks fit, detain the ship until the defects are remedied to his satisfaction.

*Explanation.*—In this section, the expression “crew accommodation” includes sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation, recreation accommodation, store rooms and catering accommodation provided for the use of seamen and apprentices, not being accommodation which is also used by, or provided for the use of, passengers.

176. A shipping master, surveyor, seamen's welfare officer, port health officer, Indian consular officer or any other officer at any port duly authorised in this behalf by the Central Government—

Inspection by shipping master, etc., of provisions, water, weights and measures and accommodation

(a) in the case of any ship upon which seamen have been shipped at that port, may at any time, and

(b) in the case of any Indian ship, may at any time, and if the master or three or more of the crew so request, shall,

enter on board the ship and inspect—

- (i) the provisions and water,
- (ii) the weights and measures,
- (iii) the accommodation for seamen,

with which the ship is required to be provided by or under this Act and also the space and equipment used for the storage and handling of food and water and the galley and other equipment used for the preparation and service of meals.

Inspection by master of provisions, water and accommodation at sea.

177. The master of an Indian ship which is at sea shall, at least once in every ten days, cause an inspection to be made of the provisions and water provided for the use of the seamen and apprentices and the crew accommodation, for the purpose of ascertaining whether the same are being maintained in accordance with the requirements of this Act, and the person making the inspection shall enter a statement of the result of the inspection in a book specially kept for the purpose.

Meaning of serving seaman.

*Special provisions for the protection of seamen in respect of litigation*

178. A seaman shall, for the purposes of these provisions, be deemed to be a serving seaman during any period commencing on the date of the agreement with the crew and ending thirty days after the date on which the seaman is finally discharged from such agreement.

Particulars to be furnished in complaints, etc.

179. (1) If any person presenting any plaint, application or appeal to any court has reason to believe that any adverse party is a serving seaman, he shall make a statement accordingly in the plaint, application or appeal.

(2) If any collector has reason to believe that any seaman who ordinarily resides or has property in his district and who is a party to any proceeding pending before any court is unable to appear therein or is a serving seaman, the collector may certify the facts to the court.

Notice to be given in case of unrepresented seaman.

180. (1) If a collector has certified under sub-section (2) of section 179, or if a court has reason to believe that a seaman who is a party to any proceeding before the court, is unable to appear therein or is a serving seaman, the court shall suspend the proceeding and shall give notice thereof to the shipping master:

Provided that the court may refrain from suspending the proceeding and giving the notice—

(a) if the proceeding is one instituted or made by the seaman, alone or conjointly with others, with the object of enforcing a right of pre-emption, or

(b) if the interests of the seaman in the proceeding are, in the opinion of the court, either identical with those of any other party thereto and adequately represented by such other party, or merely of a formal nature.

(2) If it appears to the court before which any proceeding is pending that a seaman though not a party to the proceeding is materially concerned in the outcome of the proceeding and that his interests are likely to be prejudiced by his inability to attend, the court may suspend the proceeding and shall give notice thereof to the shipping master.



(3) If on receipt of a notice under sub-section (1) or sub-section (2), the shipping master certifies to the court, that the seaman is a serving seaman, the court shall thereupon postpone the proceeding in respect of the seaman for such period as it thinks fit:

Provided that if by reason of the continued absence of the seaman the question of any further postponement of the proceeding in respect of the seaman arises, the court shall in deciding the question have regard to the purposes of the provisions of this Act conferring special protection on seaman in respect of litigation.

(4) If the shipping master either certifies that the seaman is not for the time being a serving seaman or fails within two months from the date of the receipt of the notice under sub-section (1) or sub-section (2), as the case may be, to certify that the seaman is a serving seaman, the court may, if it thinks fit, continue the proceeding.

181. (1) Where in any proceeding before a court, a decree or order has been passed against any seaman while he was a serving seaman, the seaman, or if he dies while he is a serving seaman, his legal representative, may apply to the said court to have the decree or order set aside, and if the court, after giving an opportunity to the opposite party of being heard, is satisfied that the interests of justice require that the decree or order should be set aside as against the seaman, the court shall subject to such conditions, if any, as it thinks fit to impose, make an order accordingly, and may, if it appears that any opposite party in the proceeding has failed to comply with the provisions of sub-section (1) of section 179, award, subject to such conditions as it thinks fit to impose, damages against such opposite party.

Power to set aside decrees and orders passed against serving seaman.

(2) The period of limitation for an application under sub-section (1) shall be sixty days from the date on which the seaman first ceases to be a serving seaman after the passing of the decree or order, or where the summons or notice was not duly served on the seaman in the proceeding in which the decree or order was passed, from the date on which the applicant had knowledge of the decree or order, whichever is later; and the provisions of section 5 of the Indian Limitation Act, 1908, shall apply to such applications.

9 of 1908.

(3) Where the decree or order in respect of which an application under sub-section (1) is made is of such a nature that it cannot be set aside as against the seaman only, it may be set aside as against all or any of the parties against whom it was made.

(4) Where a court sets aside a decree or order under this section, it shall appoint a day for proceeding with the suit, appeal or application, as the case may be, in respect of which the decree or order was passed.

Modification of law of limitation where seaman is a party.

182. In computing the period of limitation provided in the foregoing provisions or in the Indian Limitation Act, 1908, or in any other law for the time being in force, for any suit, appeal or application to a court to which a seaman is a party, the period or periods during which the seaman has been a serving seaman, and if the seaman has died while he was a serving seaman, the period from the date of his death to the date on which his next-of-kin was first informed, by the shipping master or otherwise, of his death, shall be excluded:

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre-emption except in such areas and in such circumstances as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Reference in matters of doubt to shipping masters.

183. If any court is in doubt whether, for the purposes of section 180 or section 181, a seaman is or was at any particular time or during any particular period a serving seaman, it may refer the question to the shipping master, and the certificate of the shipping master shall be conclusive evidence on the question.

*Provisions for the protection of seamen in respect of other matters*

Facilities for making complaints.

184. If a seaman or apprentice states to the master that he desires to make a complaint to a magistrate or other proper officer against the master or any of the crew, the master shall,—

(a) if the ship is then at a place where there is a magistrate or other proper officer, as soon after such statement as the service of the ship will permit, and

(b) if the ship is not then at such place, as soon after her first arrival at such place as the service of the ship will permit,

allow the complainant to go ashore or send him ashore under proper protection so that he may be enabled to make the complaint.

Assignment or sale of salvage invalid.

185. Subject to the provisions of this Act, an assignment of salvage payable to a seaman or apprentice made prior to the accruing thereof shall not bind the person making the same, and a power-of-attorney or authority for the receipt of any such salvage shall not be irrevocable.

No debt recoverable till end of voyage.

186. A debt incurred by any seaman after he has engaged to serve shall not be recoverable until the service agreed for is concluded.

187. (1) Any person who receives or takes into his possession or under his control any money or other property of a seaman or apprentice shall return the same or pay the value thereof when required by the seaman or apprentice subject to deduction of such amounts as may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise.

Seamen's property not to be detained.

(2) Where a magistrate imposes a fine for a contravention of this section, he may direct the amount of such money or the value of the property subject to such deduction as aforesaid, if any, or the property itself to be forthwith paid or delivered to the seaman or apprentice.

188. No person shall, while a ship is at any port or place in India—

Prohibition against solicitation by lodging house keepers.

(a) solicit a seaman or apprentice to become a lodger at the house of any person letting lodgings for hire; or

(b) take out of the ship any property of the seaman or apprentice except under the direction of the seaman or apprentice and with the permission of the master.

189. Where a ship has arrived at a port or place in India at the end of a voyage and any person, not being in the service of the Government or not being duly authorised by law for the purpose, goes on board the ship without the permission of the master before the seamen lawfully leave the ship at the end of their engagement or are discharged (whichever happens last), the master of the ship may take such person into custody and deliver him up forthwith to a police officer to be taken before a magistrate to be dealt with according to the provisions of this Act.

Ship not to be boarded without permission before seamen leave.

*Provisions as to discipline*

190. No master, seaman or apprentice belonging to an Indian ship, wherever it may be, or to any other ship, while in India, shall knowingly—

Misconduct endangering life or ship.

(a) do anything tending to the immediate loss or destruction of, or serious damage to, the ship, or tending immediately to endanger the life of, or to cause injury to any person belonging to or on board the ship; or

(b) refuse or omit to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss or destruction or serious damage, or for preserving any person belonging to or on board the ship from danger to life or from injury.

Desertion  
and absence  
without  
leave.

191. (1) No seaman lawfully engaged and no apprentice—

(a) shall desert his ship; or

(b) shall neglect or refuse, without reasonable cause, to join the ship or to proceed to sea in his ship or be absent without leave at any time within twenty-four hours of the ship's sailing from a port either at the commencement or during the progress of a voyage, or be absent at any time without leave and without sufficient reason from his ship or from his duty.

(2) For the purposes of sub-section (1), the fact that the ship on which the seaman or apprentice is engaged or to which he belongs is unseaworthy shall be deemed to be a reasonable cause:

Provided that the seaman or apprentice has, before failing or refusing to join his ship or to proceed to sea in his ship or before absenting himself or being absent from the ship, as the case may be, complained to the master or a shipping master, surveyor, seamen's welfare officer, port health officer, Indian consular officer or any other officer at any port duly authorised in this behalf by the Central Government, that the ship is unseaworthy.

Power to  
suspend  
deserter's  
certificate of  
discharge.

192. If it is shown to the satisfaction of a proper officer that a seaman has deserted his ship or has absented himself without leave and without sufficient reason from his ship or from his duty, the proper officer shall forthwith make a report to that effect to the Director-General who may thereupon direct that the seaman's certificate of discharge or continuous certificate of discharge shall be withheld for such period as may be specified in the direction.

Conveyance  
of deserter  
or imprison-  
ed seaman  
on board  
ship.

193. (1) If a seaman or apprentice deserts his ship or is absent without leave and without sufficient reason from his ship or from his duty, the master, any mate, the owner or agent of the owner of the ship may, without prejudice to any other action that may be taken against the seaman or apprentice under this Act, convey him on board his ship and may for that purpose cause to be used such force as may be reasonable in the circumstances of the case.

(2) If, either at the commencement or during the progress of any voyage, a seaman or apprentice engaged in an Indian ship commits outside India, the offence of desertion or absence without leave or any offence against discipline, the master, any mate, the owner or agent of the owner may, if and so far as the laws in force in the place will permit, arrest him without first procuring a warrant.

(3) No person shall convey on board or arrest a seaman or apprentice on improper or insufficient grounds.

(4) Where a seaman or apprentice is brought before a court on the ground of desertion or of absence without leave or of any offence against discipline, and the master or the owner, or his agent, so requires, the court, may, in lieu of committing and sentencing him for the offence, cause him to be conveyed on board his ship for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the conveyance to be paid by the offender and, if necessary, to be deducted from any wages which he has then earned or by virtue of his then existing engagements may afterwards be earned.

194. A seaman lawfully engaged or an apprentice shall be guilty of an offence against discipline if he commits any of the following acts, namely:—

General offences against discipline.

(a) if he quits the ship without leave after her arrival at her port of delivery and before she is placed in security;

(b) if he is guilty of wilful disobedience to any lawful command or neglect of duty;

(c) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty;

(d) if he assaults the master or any other officer of the ship;

(e) if he combines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or retard the progress of the voyage;

(f) if he wilfully damages his ship or commits criminal misappropriation or breach of trust in respect of, or wilfully damages any of, her stores or cargo.

195. (1) If a seaman lawfully engaged or an apprentice is convicted of an offence of smuggling any goods whereby loss or damage is occasioned to the master or owner of the ship, he shall be liable to pay to that master or owner a sum sufficient to reimburse the loss or damage and the whole or a part of his wages may be retained in satisfaction on account of that liability without prejudice to any other remedy.

Smuggling of goods by seamen or apprentices.

(2) If a seaman lawfully engaged is convicted of an offence of smuggling opium, hemp or any other narcotic drug or narcotic, the Director-General may direct that the seaman's certificate of discharge or continuous certificate of discharge shall be cancelled or shall be suspended for such period as may be specified in the direction.

Entry of  
offences in  
official logs.

196. If any offence within the meaning of this Act of desertion or absence without leave or against discipline is committed, or if any act of misconduct is committed for which the offender's agreement imposes a fine and it is intended to enforce the fine,—

(a) an entry of the offence or act shall be made in the official log book and signed by the master, the mate and one of the crew; and

(b) the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, be furnished with a copy of the entry and have the same read over distinctly and audibly to him and may thereupon make such reply thereto as he thinks fit; and

(c) a statement of a copy of the entry having been so furnished and the entry having been so read over and the reply, if any, made by the offender shall likewise be entered and signed in manner aforesaid; and

(d) in any subsequent legal proceedings the entries by this section required shall, if practicable, be produced or proved, and, in default of such production or proof, the court hearing the case may in its discretion, refuse to receive evidence of the offence or act of misconduct.

Report of  
desertions  
and absences  
without  
leave.

197. Whenever any seaman engaged outside India on an Indian ship deserts or otherwise absents himself in India without leave, the master of the ship shall, within forty-eight hours of discovering such desertion or absence, report the same to the shipping master or to such other officer as the Central Government specifies in this behalf, unless in the meantime, the deserter or absentee returns.

Entries and  
certificates  
of desertion  
abroad.

198. (1) In every case of desertion from an Indian ship whilst such ship is at any place out of India, the master shall produce the entry of desertion in the official log book to the Indian consular officer at the place, and that officer shall thereupon make and certify a copy of the entry.

(2) The master shall forthwith transmit such copy to the shipping master at the port at which the seaman or apprentice was shipped, and the shipping master shall, if required, cause the same to be produced in any legal proceeding.

(3) Such copy, if purporting to be so made and certified as aforesaid, shall, in any legal proceeding relating to such desertion, be admissible in evidence.

199. (1) Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion from a ship, it shall be sufficient for the person insisting on the forfeiture to show that the seaman or apprentice was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement or, if the voyage was to terminate in India and the ship has not returned, that he is absent from her and that an entry of his desertion has been duly made in the official log book.

Facilities for proving desertion in proceedings for forfeiture of wages.

(2) The desertion shall thereupon, so far as relates to any forfeiture of wages under this Part, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the court that he had sufficient reasons for leaving his ship.

200. (1) Where any wages or other property are under this Act forfeited for desertion from a ship, they shall be applied towards reimbursing the expenses caused by the desertion to the master or the owner of the ship, and subject to that reimbursement, shall be paid to the Central Government.

Application of forfeitures.

(2) For the purposes of such reimbursement the master or the owner or his agent may, if the wages are earned subsequent to the desertion, recover them in the same manner as the deserter could have recovered them if not forfeited; and the court in any legal proceeding relating to such wages may order them to be paid accordingly.

201. Any question concerning the forfeiture of or deductions from the wages of a seaman or apprentice may be determined in any proceeding lawfully instituted with respect to those wages, notwithstanding that the offence in respect of which the question arises, though by this Act made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Decision of questions of forfeiture and deduction in suits for wages.

202. (1) Every fine imposed on a seaman for any act of misconduct under his agreement shall be deducted and paid over as follows, namely:—

Payment of fines imposed under agreement to shipping master.

(a) if the offender is discharged at any port or place in India and the offence and such entries in respect thereof as aforesaid are proved to the satisfaction of the shipping master before whom the offender is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping master; and

(b) if the seaman is discharged at any port or place outside India and the offence and such entries as aforesaid are proved to the satisfaction of the Indian consular officer, by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log book, if any, and signed by such officer and on the return of the ship to India, the master or owner shall pay over such fine to the shipping master before whom the crew is discharged.

(2) An act of misconduct for which any such fine has been inflicted and paid shall not be otherwise punishable under the provisions of this Act.

(3) The proceeds of all fines received by a shipping master under this section shall be utilised for the welfare of seamen in such manner as the Central Government may direct.

Seaman or apprentice not to be enticed to desert.

203. No person shall by any means whatever persuade or attempt to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or desert from his ship, or otherwise to absent himself from his duty.

Deserters not to be harboured.

204. No person shall harbour or secrete a seaman or apprentice who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe the seaman or apprentice to have so done.

Stowaways and seamen carried under compulsion.

205. (1) No person shall secrete himself and go to sea in a ship without the consent of either the owner, agent or master, or of a mate, or of the person in charge of the ship or of any other person entitled to give that consent.

(2) Every seafaring person whom the master of a ship is under the authority of this Act or any other law compelled to take on board and convey and every person who goes to sea in a ship without such consent as aforesaid, shall, so long as he remains in the ship, be subject to the same laws and regulations for preserving discipline and to the same fines and punishments for offences constituting or tending to a breach of discipline as if he were a member of, and has signed the agreement with, the crew.

(3) The master of any Indian ship arriving at any port or place in or outside India and the master of any ship other than an Indian ship arriving at any port or place in India shall, if any person has gone to sea on that ship without the consent referred to in subsection (1), report the fact in writing to the proper officer as soon as may be after the arrival of the ship.



206. If any seaman engaged outside India is imprisoned on complaint made by or on behalf of the master or owner of the ship or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, then—

Procedure where seaman not shipped in India is imprisoned on complaint of master or owner.

(a) while such imprisonment lasts, no person shall, without the previous sanction in writing of the Central Government or of such officer as it may specify in this behalf, engage in India any person to serve as a substitute for such seaman on board the ship; and

(b) the Central Government or such officer as it may specify in this behalf may tender such seaman to the master or owner of the ship in which he is engaged to serve, and if such master or owner, without assigning reasons satisfactory to the Central Government or to such officer as aforesaid, refuses to receive him on board, may require such master or owner to deposit in the local shipping office—

(i) the wages due to such seaman and his money and other property; and

(ii) such sum as may, in the opinion of the Central Government or such officer as aforesaid, be sufficient to defray the cost of the passage of such seaman to the port at which he was shipped according to the scale of costs usual in the case of distressed seamen.

207. If any seaman engaged outside India is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding three months, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any magistrate may, at the request of the master or owner or his agent, cause the seaman to be conveyed on board the ship for the purpose of proceeding on the voyage or to be delivered to the master or any mate of the ship or to the owner or his agent to be by them so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated.

Power to send on board seaman not shipped in India who is undergoing imprisonment.

208. (1) If during the progress of a voyage the master of any Indian ship is removed or superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and the crew thereof which are in his custody.

On change of master, documents to be handed over to successor.

(2) Such successor shall immediately on assuming the command of the ship enter in the official log book a list of the documents so delivered to him.

Transmission of documents on transfer of seaman from one ship to another.

209. Where a seaman is transferred under his agreement from one ship to another, the master of the ship from which the seaman is transferred shall, as soon as practicable, transmit to the master of the other ship all documents in his possession relating to the seaman.

Leaving behind in India of seaman or apprentice engaged abroad.

210. (7) The master of a ship shall not discharge at any place in India, a seaman or apprentice engaged outside India unless he previously obtains the sanction in writing of such officer as the Central Government appoints in this behalf; but such sanction shall not be refused when the seaman or apprentice is discharged on the termination of his service.

(2) Subject to the provisions contained in sub-section (1), the sanction under that sub-section shall be given or withheld at the discretion of the officer so appointed, but whenever it is withheld, the reasons for so withholding it shall be recorded by him.

Deserters from foreign ships.

211. (1) Where it appears to the Central Government that due facilities are or will be given by the Government of any country outside India for recovering and apprehending seamen who desert from Indian ships in that country, the Central Government may, by notification in the Official Gazette, stating that such facilities are or will be given, declare that this section shall apply to seamen belonging to ships of such country, subject to such limitations or conditions as may be specified in the notification.

(2) Where this section applies to seamen belonging to ships of any country and a seaman deserts from any such ship, when within India, any court that would have had cognizance of the matter if the seaman or apprentice had deserted from an Indian ship shall, on the application of a consular officer of that country, aid in apprehending the deserter and for that purpose may, on information given on oath, issue a warrant for his apprehension and on proof of the desertion order him to be conveyed on board his ship or delivered to the master or mate of his ship or to the owner of the ship or his agent to be so conveyed and any such warrant or order may be executed accordingly.

Official logs

212. (1) An official log shall be kept in the prescribed form in every Indian ship except a home-trade ship of less than two hundred tons gross. Official logs to be kept and to be dated.

(2) The official log may, at the discretion of the master or owner, be kept distinct from or united with the ordinary ship's log so that in all cases the spaces in the official log book be duly filled up.

213. (1) An entry required by this Act in the official log book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same day as that occurrence, shall be made and dated so as to show the date of the occurrence and of the entry respecting it and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, shall not be made more than twenty-four hours after that arrival. Entries in official log books how and when to be made.

(2) Save as otherwise provided in this Act, every entry in the official log book shall be signed by the master and by the mate or some other member of the crew and also—

(a) if it is an entry of injury or death, shall be signed by the medical officer on board, if any; and

(b) if it is an entry of wages due to or the property of a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master.

(3) Every entry made in an official log book in the manner provided by this Act shall be admissible in evidence.

214. (1) The master of a ship for which an official log is required shall enter or cause to be entered, in the official log book the following matters, namely:— Entries required to be made in official log books.

(a) every conviction by a legal tribunal of a member of his crew and the punishment inflicted;

(b) every offence committed by a member of his crew for which it is intended to prosecute or to enforce a forfeiture or exact a fine, together with such statement concerning the reading over of that entry and concerning the reply (if any) made to the charge as is by this Act required;

(c) every offence for which punishment is inflicted on board and the punishment inflicted;

(d) a report on the quality of work of each member of his crew, or a statement that the master declines to give an opinion thereon with a statement of his reasons for so declining;

(e) every case of illness, hurt or injury happening to a member of the crew with the nature thereof and the medical treatment adopted (if any);

(f) every case of death happening on board and the cause thereof, together with such particulars as may be prescribed;

(g) every birth happening on board, with the sex of the infant, the names of the parents and such other particulars as may be prescribed;

(h) every marriage taking place on board with the names and ages of the parties;

(i) the name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof;

(j) the wages due to any seaman or apprentice who dies during the voyage and the gross amount of all deductions to be made therefrom;

(k) the money or other property taken over of any seaman or apprentice who dies during the voyage;

(l) any other matter which is to be or may be prescribed for entry in the official log.

(2) The master of every such ship, upon its arrival at any port in India or at such other time and place as the Central Government may with respect to any ship or class of ships direct, shall deliver or transmit, in such form as the Director-General may specify, a return of the facts recorded by him in respect of the birth of a child, or the death of a person on board the ship to the Director-General.

(3) (a) The Director-General shall send a certified copy of such of the returns received by him under sub-section (2) as relate to citizens of India, to such officer as may be specified in this behalf by the Central Government; and such officer shall cause the same to be preserved in such manner as may be specified in this behalf by the Central Government.

(b) Every such copy shall be deemed to be a certified copy of the entry with respect to the person concerned, registered under

any law in force for the time being relating to the registration of births and deaths.

215. (1) An official log book shall be kept in the manner required by this Act, and an entry directed by this Act to be made therein shall be made at the time and in the manner directed by this Act.

Offences in respect of official logs.

(2) No person shall make or procure to be made or assist in making any entry in any official log book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival.

216. The master of every ship for which an official log book is required to be kept under this Act shall, within forty-eight hours after the ship's arrival at her final port of destination in India or upon the discharge of the crew, whichever first happens, deliver the official log book of the voyage to the shipping master before whom the crew is discharged.

Delivery of official logs to shipping masters.

217. (1) If for any reason the official log ceases to be required in respect of an Indian ship, the master or owner of the ship shall, if the ship is then in India within one month, and if she is elsewhere within six months, after the cessation, deliver or transmit to the shipping master at the port to which the ship belonged the official log book duly completed up to the time of cessation.

Official logs to be sent to shipping master in case of transfer of ship or loss.

(2) If a ship is lost or abandoned, the master or owner thereof shall, if practicable and as soon as possible, deliver or transmit to the shipping master at her port of registry the official log book, duly completed up to the time of the loss or abandonment.

#### *National Welfare Board for Seafarers*

218. (1) The Central Government may, by notification in the Official Gazette, constitute an advisory board to be called the National Welfare Board for Seafarers (hereinafter referred to as the Board) for the purpose of advising the Central Government on the measures to be taken for promoting the welfare of seamen (whether ashore or on board ship) generally and in particular the following:—

Functions of National Welfare Board for Seafarers.

(a) the establishment of hostels or boarding and lodging houses for seamen;

(b) the establishment of clubs, canteens, libraries and other like amenities for the benefit of seamen;

(c) the establishment of hospitals for seamen or the provision of medical treatment for seamen;

(d) the provision of educational and other facilities for seamen.

(2) The Central Government may make rules providing for—

(a) the composition of the Board and the term of office of members thereof;

(b) the procedure to be followed in the conduct of business by the Board;

(c) the travelling and other allowances payable to members of the Board;

(d) the levy of fees payable by owners of ships at such rates as may be prescribed (which may be at different rates for different classes of ships) for the purpose of providing amenities to seamen and for taking other measures for the welfare of seamen;

(e) the procedure by which any such fees may be collected or recovered and the manner in which the proceeds of such fees, after deduction of the cost of collection, shall be utilised for the purpose specified in clause (d).

## PART VIII

### PASSENGER SHIPS

#### *Survey of passenger ships*

Application of Part. 219. This Part applies only to sea-going passenger ships fitted with mechanical means of propulsion, but the provisions of this Part relating to unberthed passenger ships shall not apply—

(a) to any such ship not carrying more than thirty unberthed passengers; or

(b) to any such ship not intended to carry unberthed passengers to or from any port or place in India.

No. ship to carry passengers without a certificate of survey. 220. (1) No ship shall carry more than twelve passengers between ports or places in India or to or from any port or place in India from or to any port or place outside India, unless she has a certificate of survey under this Part in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed:

Provided that nothing in this section shall apply to any ship which has been granted a certificate under section 235, unless it appears from the certificate that it is inapplicable to the voyage on which the ship is about to proceed or the service on which she is about to be employed, or unless there is reason to believe that the ship has, since the grant of the certificate, sustained injury or damage or been found unseaworthy or otherwise inefficient.

(2) No customs collector shall grant a port clearance, nor shall any pilot be assigned, to any ship for which a certificate of survey

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is required by this Part until after the production by the owner, agent or master thereof of a certificate under this Part in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

(3) If any ship for which a certificate of survey is required by this Part leaves or attempts to leave any port of survey without a certificate, any customs collector or any pilot on board the ship may detain her until she obtains a certificate.

221. (1) The owner or agent of every passenger ship for which a certificate of survey is required under this Part shall cause it to be surveyed in the prescribed manner. <sup>Power of surveyor.</sup>

(2) For the purposes of a survey under this Part, a surveyor may, at any reasonable time, go on board a ship, and may inspect the ship and any part thereof, and the machinery, equipment or articles on board thereof:

Provided that he does not unnecessarily hinder the loading or unloading of the ship, or unnecessarily detain or delay her from proceeding on any voyage.

(3) The owner, agent, master and every officer of the ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the ship and her machinery and equipment, or any part thereof, respectively, as the surveyor reasonably requires.

222. Before a survey under this Part is commenced, the owner, agent or master of the ship to be surveyed shall pay to such officer as the Central Government may appoint in this behalf— <sup>Fees in respect of survey.</sup>

(a) a fee calculated on the tonnage of the ship according to the prescribed rates;

(b) when the survey is to be made in any port of survey other than Bombay, Calcutta or Madras, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port as the Central Government may by order direct.

223. When a survey under this Part is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, deliver to the owner, agent or master of the ship surveyed a declaration of survey in the prescribed form containing the following particulars, namely:— <sup>Declaration of survey.</sup>

(a) that the hull and machinery of the ship are sufficient for the service intended and in good condition;

(b) that the equipment of the ship is in such condition and that the certificates of the master, mates, engineers or engine-drivers and of the radio telegraphy operators, are such, as are required by this Act or any other law for the time being in force and applicable to the ship;

(c) the time (if less than one year) for which the hull, machinery and equipment of the ship will be sufficient;

(d) the voyages or class of voyages on which, as regards construction, machinery and equipment, the ship is in the surveyor's opinion fit to ply;

(e) the number of passengers which the ship is, in the opinion of the surveyor, fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins; the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances as the case requires; and

(f) any other prescribed particulars.

Sending of declaration by owner, agent or master to Central Government.

224. (1) The owner, agent or master to whom a declaration of survey is given shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Central Government may appoint in this behalf.

(2) If the owner, agent or master fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed and shall pay any sum so forfeited on the delivery of the certificate of survey.

Grant of certificate of survey by Central Government.

225. (1) Upon receipt of a declaration of survey, the Central Government shall, if satisfied that the provisions of this Part have been complied with, cause a certificate, in duplicate, to be prepared and delivered, through such officer at the port at which the ship was surveyed as the Central Government may appoint in this behalf, to the owner, agent or master of the ship surveyed, on his applying and paying the sums (if any) mentioned in section 224 as payable on the delivery of a certificate.

(2) A certificate granted under this section shall be in the prescribed form; shall contain a statement to the effect that the provisions of this Part with respect to the survey of the ship and the transmission of the declaration of survey in respect thereof have been complied with; and shall also set forth—

(a) the particulars concerning the ship which clauses (c),



(d) and (e) of section 223 require the declaration of survey to contain; and

(b) any other prescribed particulars.

226. (1) If a surveyor making a survey under this Part refuses to give a declaration of survey under section 223 with regard to any ship, or gives a declaration with which the owner or agent or master of the ship surveyed is dissatisfied, the Central Government may, on the application of the owner, agent or master, and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Central Government may require, direct any other surveyor to survey the ship.

Power of Central Government to order a second survey.

(2) The surveyor so directed shall forthwith survey the ship, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to him proper, and his decision shall, save as otherwise provided in this Act, be final.

227. (1) A certificate of survey granted under this Part shall not be in force—

Duration of certificates of survey.

(a) after the expiration of one year from the date of issue; or

(b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipment have been stated in the certificate to be sufficient; or

(c) after notice has been given by the Central Government to the owner, agent or master of the ship to which the certificate relates that the Central Government has cancelled or suspended it.

(2) If a passenger ship is absent from India at the time when her certificate expires, the provisions of this Part relating to certificate of survey shall not be deemed to be contravened unless she first begins to ply with passengers after her next return to India.

228. (1) Any certificate of survey granted under this Part may be cancelled or suspended by the Central Government if it has reason to believe—

Cancellation or suspension of certificate of survey by Central Government.

(a) that the declaration by the surveyor of the sufficiency of the hull, boilers, engines or any of the equipment of the ship has been fraudulently or erroneously made; or

(b) that the certificate has otherwise been issued upon false or erroneous information.

(2) Before any certificate of survey is cancelled or suspended under sub-section (1), the holder of the certificate shall be given a reasonable opportunity of showing cause why the certificate should not be cancelled or suspended, as the case may be:

Provided that this sub-section shall not apply where the Central Government is satisfied that for some reason to be recorded in writing it is not reasonably practicable to give to the holder of the certificate an opportunity of showing cause.

Alterations in ships subsequent to grant of certificate of survey, and additional surveys.

229. (1) The owner, agent or master of a ship in respect of which a certificate of survey granted under this Part is in force, shall, as soon as possible after any alteration is made in the ship's hull, equipment or machinery which affects the efficiency thereof or the seaworthiness of the ship, give written notice to such person as the Central Government may direct containing full particulars of the alteration.

(2) If the Central Government has reason to believe that since the making of the last declaration of survey in respect of a ship—

(a) any such alteration as aforesaid has been made in the hull, equipment or machinery of the ship; or

(b) the hull, equipment or machinery of the ship have sustained any injury or are otherwise insufficient;

the Central Government may require the ship to be again surveyed to such extent as it may think fit, and, if such requirement is not complied with, may cancel any certificate of survey issued under this Part in respect of the said ship.

Power to require delivery of expired or cancelled certificate of survey.

230. Every certificate of survey granted under this Part which has expired, or has been cancelled or suspended, shall be delivered to such person as the Central Government may direct.

Certificate of survey to be affixed in conspicuous part of ship.

231. The owner or master of every ship for which a certificate of survey has been granted under this Part shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as the certificate remains in force and the ship is in use on some conspicuous part of the ship where it may be easily read by all persons on board thereof.

Ship not to carry passengers in contravention of Act.

232. (1) No ship on any voyage shall carry or attempt to carry passengers in contravention of section 220 or shall have on board or in any part thereof a number of passengers which is greater than the number set forth in the certificate of survey as the number of passengers which the ship or the part thereof is fit to carry on that voyage.

(2) If the master or any other officer of any ship which carries or attempts to carry passengers in contravention of section 220 is a licensed pilot, he shall be liable to have his licence as a pilot cancelled or suspended for such period as the Central Government may, by order, specify.

*Keeping order in passenger ships*

233. (1) If, in the case of a ship for which a certificate of survey has been granted under this Part,—

Offences in connection with passenger ships.

(a) any person being drunk or disorderly has been on that account refused admission thereto by the owner or any person in his employ and, after having the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the ship;

(b) any person being drunk or disorderly on board the ship is requested by the owner or any person in his employ to leave the ship at any place in India at which he can conveniently do so, and after having the amount of his fare (if he has paid it) returned or tendered to him, does not comply with the request;

(c) any person on board the ship after warning by the master or other officer thereof, molests or continues to molest any passenger;

(d) any person having gone on board the ship at any place and being requested, on account of the ship being full, by the owner or any person in his employ to leave the ship, before it has departed from that place, and having had the amount of his fare (if he has paid it) returned or tendered to him, does not comply with that request;

(e) any person travels or attempts to travel in the ship without first paying his fare and with intent to avoid payment thereof;

(f) any person on arriving in the ship at the place for which he has paid his fare knowingly and wilfully refuses or neglects to quit the ship;

(g) any person on board the ship fails when requested by the master or other officer thereof either to pay his fare or

to exhibit such ticket or other receipt, if any, showing the payment of his fare as is usually given to persons travelling by and paying fare for the ship;

he shall be guilty of an offence under this sub-section.

(2) No person on board any such ship shall wilfully do or cause to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of the ship or to obstruct, impede or molest the crew or any of them in the navigation or management of the ship or otherwise in the execution of their duty on or about the ship.

(3) The master or other officer of any such ship and all persons called by him to his assistance may, without warrant, detain any person who commits any offence under this section and whose name and address are unknown to the master or officer and convey the offender with all convenient despatch before the nearest magistrate to be dealt with according to law.

Power to exclude drunken passengers from passenger ships.

234. The master of any passenger ship may refuse to receive on board thereof any person who by reason of drunkenness or otherwise is in such a state or misconducts himself in such a manner as to cause annoyance or injury to passengers on board, and if any such person is on board, may put him on shore at any convenient place; and a person so refused admittance or put on shore shall not be entitled to the return of any fare he has paid.

Ships with certificates of survey or certificates of partial survey granted outside India.

235. (1) When a ship requires to be furnished with a certificate of survey under this Part and the Central Government is satisfied—

(a) by the production of a certificate of survey that the ship has been officially surveyed at a port in a country outside India;

(b) that the requirements of this Act are proved by that survey to have been substantially complied with; and

(c) that certificates of survey granted under this Part are accepted in such country in lieu of the corresponding certificates required under the laws in force in that country;

the Central Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Part.

(2) When the Central Government has, by notification in the Official Gazette, declared that it is satisfied that an official survey at a port in a country outside India specified in the declaration is

such as to prove that the requirements of this Act have been substantially complied with, any person authorised by the Central Government in this behalf may exercise the power to dispense with a survey and to give a certificate conferred on the Central Government by sub-section (1) in the case of any ship furnished with a valid certificate of survey granted at such port.

(3) The provisions of sub-section (1) shall be applicable in the case of ships furnished with valid certificates of partial survey including docking certificates, as if they were ships furnished with like certificates granted at ports in countries outside India subject to the modification that the powers of the Central Government under the said sub-section may be exercised by any person authorised by the Central Government in this behalf.

236. (1) The Central Government may, subject to the condition of previous publication, make rules to regulate the making of surveys under this Part and the provisions to be made for the safety of life at sea.

Power to make rules as to surveys.

(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 times and places at which, and the manner in which, surveys are to be made;

(b) the requirements as to construction, machinery, equipment and marking of sub-division load lines, which are to be fulfilled by ships generally or by any class of ships in particular before a declaration of survey may be granted;

(c) the survey of ships by two or more surveyors;

(d) the duties of the surveyor making a survey and, where two or more surveyors are employed, the respective duties of each of the surveyors employed;

(e) the form in which declarations of survey and certificates of survey under this Part are to be made and the nature of the particulars to be stated therein respectively;

(f) the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the ports of survey;

(g) the closing of, and keeping closed, the openings in ships' hulls and in water-tight bulkheads;

(h) the securing of, and keeping in place and the inspection of contrivances for closing any such openings as aforesaid;

(4) the operation of mechanisms or contrivances for closing any such openings as aforesaid and the drills in connection with the operation thereof; and

(j) the entries to be made in the official log book or other record to be kept of any of the matters aforesaid.

*Unberthed passenger ships and pilgrim ships*

Ports or places where unberthed passengers or pilgrims may embark or be discharged.

237. (1) Neither an unberthed passenger ship nor a pilgrim ship shall depart or proceed from or discharge unberthed passengers or pilgrims, as the case may be, at any port or place within India other than a port or place appointed in this behalf by the Central Government for unberthed passenger ships or pilgrim ships, as the case may be.

(2) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as an unberthed passenger or pilgrim, as the case may be, except at some other port or place so appointed.

Notice to be given of day of sailing.

238. (1) The master, owner or agent of an unberthed passenger ship or a pilgrim ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Central Government that the ship is to carry unberthed passengers or pilgrims and of her destination and of the proposed time of sailing.

(2) The notice shall be given—

(a) in the case of an unberthed passenger ship, not less than twenty-four hours before that time;

(b) in the case of a pilgrim ship at the original port of departure, if in India, and in any other case at the first port at which she touches in India, not less than three days, and at all other ports not less than twenty-four hours, before that time.

Power to enter on and inspect ship.

239. After receiving the notice under section 238 the officer appointed under that section or a person authorised by him in this behalf shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board.

Ship not to sail without certificates A and B.

240. (1) A ship intended to carry unberthed passengers or pilgrims shall not commence a voyage from the port or place appointed under sub-section (1) of section 237, unless the master holds two certificates to the effect mentioned in sections 241 and 242.

(2) The customs collector whose duty it is to grant a port clearance for the ship shall not grant it unless the master holds the aforesaid certificates.

241. (1) The first of the certificates (hereinafter called certificate A) shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and—

Contents of certificate A.

(a) in the case of an unberthed passenger ship, the number of passengers which she is capable of carrying;

(b) in the case of a pilgrim ship, the number of pilgrims of each class which she is capable of carrying.

(2) Certificate A shall be in the prescribed form and shall be in force for a period of one year from the date of issue or for such shorter period as may be specified therein and it shall be issued in duplicate.

(3) Where the master of a ship produces to the certifying officer a certificate of survey granted under this Part or a safety certificate granted under Part IX in respect of the ship in force and applicable to the voyage on which the ship is about to be employed, the certifying officer may, if the particulars required by sub-section (1) are certified thereby, accept the certificate of survey or safety certificate in lieu of certificate A; and such certificate shall then be deemed to be a certificate A for the purposes of this Part in respect of that voyage.

242. The second of the certificates (hereinafter called certificate B) shall be in the prescribed form and shall state—

Contents of certificate B.

(a) the voyage which the ship is to make, and the intermediate ports (if any) at which she is to touch;

(b) that she has the proper complement of officers and seamen;

(c) that the master holds a certificate of survey or a safety certificate or certificate A;

(d) that she has on board such number of medical officers licensed in the prescribed manner and such number of attendants, if any, as may be prescribed;

(e) that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for unberthed passenger ships or pilgrim ships, have been placed

on board, of the quality prescribed, properly packed, and sufficient to supply the unberthed passengers or pilgrims on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the prescribed scale;

(f) in the case of an unberthed passenger ship, if the ship is to make a voyage in a season of foul weather specified as such in the rules made under section 262, and to carry upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather;

(g) in the case of an unberthed passenger ship, the number of cabin and unberthed passengers embarked at the port of embarkation;

(h) such other particulars, if any, as may be prescribed for unberthed passenger ships or pilgrim ships, as the case may be.

Officers entitled to grant certificates. 243. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 238 who is hereinafter referred to as the certifying officer.

Survey of ship. 244. After receiving the notice required by section 238, the certifying officer may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by a surveyor, who shall report to him whether the ship is, in his opinion, seaworthy and properly equipped, fitted and ventilated for the service on which she is to be employed:

Provided that he shall not cause a ship holding a certificate of survey or a safety certificate to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable grounds, he considers it likely that she may be found unseaworthy or not properly equipped fitted or ventilated for the service on which she is to be employed.

Discretion as to grant of certificate B. 245. (1) The certifying officer shall not grant a certificate B if he has reason to believe that the weather conditions are likely to be adverse or that the ship has on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the unberthed passengers or pilgrims.

(2) Save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the certifying officer to grant or withhold the certificate, and when he withholds the certificate, the reasons for so doing shall be communicated to the person concerned.



(3) In the exercise of that discretion that officer shall be subject to the control of the Central Government or of such authority as the Central Government may appoint in this behalf.

246. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to the persons on board thereof, a copy of certificate A granted under this Part in respect of the ship and shall keep that copy so posted up as long as it is in force.

Copy of certificate A to be exhibited.

247. (1) The master of an unberthed passenger ship or any contractor employed by him for the purpose shall not, without reasonable excuse, the burden of proving which shall lie upon him, omit to supply to any unberthed passenger the prescribed allowance of food, fuel and water, and the master of a pilgrim ship, or any contractor employed by him for the purpose shall not, without reasonable excuse, the burden of proving which shall lie upon him, omit to supply to any pilgrim the prescribed allowances of food and of water as required by the provisions of this Part.

Unberthed passengers or pilgrims to be supplied with prescribed provisions.

(2) Where, under the terms of the ticket issued to an unberthed passenger, he is not entitled to the supply of food by the master or owner or agent of the ship, sub-section (1) shall, in the case of such passenger, have effect as if the reference to "food" in that sub-section were omitted.

248. (1) An unberthed passenger ship or a pilgrim ship shall not carry a number of unberthed passengers or pilgrims, which is greater than the number allowed for the ship by or under this Part.

Number of passengers on board not to exceed that allowed by or under this Part.

(2) Any officer authorised in this behalf by the Central Government may cause all unberthed passengers or pilgrims over and above the number allowed by or under this Part to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master, owner or agent of the ship as if the cost were a fine imposed under this Part, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

249. No master, owner or agent of an unberthed passenger ship or a pilgrim ship shall land any unberthed passenger or pilgrim at any port or place other than the port or place at which the unberthed passenger or pilgrim may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident

Unberthed passenger or pilgrim not to be landed at a place other than that at which he has contracted to land.

Forwarding  
of pas-  
sengers by  
Indian  
consular  
officers.

250. (1) If any unberthed passenger from a ship which is on a voyage from any port or place in India finds himself without any neglect or default of his own at any port or place outside India other than the port or place for which the ship was originally bound or at which he has contracted that he should land, the Indian consular officer at or near that port or place may forward the passenger to his intended destination, unless the master, owner or agent of the ship within forty-eight hours of the arrival of the passenger gives to that officer a written undertaking to forward the passenger within six weeks thereafter to his original destination and forwards him accordingly within that period.

(2) A passenger so forwarded by or by the authority of an Indian consular officer shall not be entitled to the return of his passage money or to any compensation for loss of passage.

Recovery of  
expenses in-  
curred in  
forwarding  
passengers.

251. (1) All expenses incurred under section 250 by an Indian consular officer in respect of the forwarding of a passenger to his destination including the cost of maintaining the passenger until forwarded to his destination shall be a debt due to the Central Government jointly and severally from the owner, charterer, agent and master of the ship on board which the passenger had embarked.

(2) In any proceeding for the recovery of that debt a certificate purporting to be under the hand of the Indian consular officer and stating the circumstances of the case and the total amount of the expenses shall be *prima facie* evidence of the amount of the expenses and of the fact that the same were duly incurred.

Ship not to  
make voyage  
in contra-  
vention of  
contract.

252. The master, owner or agent of an unberthed passenger ship or a pilgrim ship shall not, otherwise than by reason of perils of the sea or other unavoidable accident, allow the ship to touch at any port or place in contravention of any express or implied contract or engagement with the unberthed passengers or pilgrims with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise.

Information  
to be sent to  
ports of em-  
barkation and  
discharge.

253. (1) The officer appointed by the Central Government in this behalf, at any port or place within India at which an unberthed passenger ship or a pilgrim ship touches or arrives, shall send any particulars which he may deem important respecting the unberthed passenger ship or pilgrim ship, and the unberthed passengers or pilgrims carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within India where the unberthed passengers or pilgrims or any of them embarked or are to be discharged.

(2) The officer aforesaid may go on board any ship referred to in sub-section (1) and inspect her in order to ascertain whether the provisions of this Act as to the number of unberthed passengers or pilgrims and other matters have been complied with.

254. In any proceeding for the adjudication of any penalty incurred under this Part, any document purporting to be a report of such particulars as are referred to in sub-section (1) of section 253, or a copy of the proceedings of any court of justice duly authenticated, and also any like document purporting to be made and signed by an Indian consular officer shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Part is held.

Reports, etc., under section 253 to be admissible in evidence.

*Special provisions relating to unberthed passenger ships*

255. (1) The master, owner or agent of an unberthed passenger ship departing or proceeding from any port or place in India appointed in this behalf by the Central Government under sub-section (1) of section 237 shall issue at such port or place in the prescribed manner an advertisement containing the particulars required to be stated in the notice under sub-section (1) of section 238; and such advertisement shall be issued before such reasonable and sufficient interval as may be prescribed before the date of sailing of any such ship from such port or place.

Destination of ship, time of sailing, etc., to be advertised.

(2) The Central Government may, by order in writing, exempt any class of ships from the operation of sub-section (1).

256. If any unberthed passenger ship performing a voyage between ports or places in India takes additional unberthed passengers on board at an intermediate port or place, the master shall obtain from the certifying officer at that port or place a supplementary certificate stating—

Ship taking additional passengers at intermediate place.

(a) the number of unberthed passengers so taken on board; and

(b) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship, have been placed on board, of the quality prescribed, properly packed and sufficient to supply the unberthed passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed.

Provided that, if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her, have been placed on board, of the quality prescribed, properly packed and sufficient to supply the full number of unberthed passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate, but shall obtain from the certifying officer an endorsement on the certificate B showing the number of passengers taken on board, and the number of passengers discharged, at that port or place.

Statements  
concerning  
passengers.

257. (1) The master of an unberthed passenger ship departing or proceeding on a voyage from a port or place in India to a port or place outside India shall sign a statement in duplicate, specifying the number and the respective sexes of all the unberthed passengers, and the number of the crew, and shall deliver both copies to the certifying officer, who shall thereupon, after having first satisfied himself that the entries are correct, countersign and return to the master one copy of the statement.

(2) In either of the following cases, namely:—

(a) if after the ship has departed or proceeded on such a voyage any additional unberthed passengers are taken on board at a port or place within India appointed under this Part for the embarkation of unberthed passengers; or

(b) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional unberthed passengers at any port or place outside India;

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall make an additional statement specifying the number and the respective sexes of all the additional passengers.

Death of  
unberthed  
passengers  
on voyage.

258. (1) The master of any unberthed passenger ship performing a voyage between ports or places in India, shall, on arrival at her port of destination, notify to the certifying officer or such other officer as the Central Government may appoint in this behalf, the date and supposed cause of death of every unberthed passenger who may die on the voyage.

(2) The master of any unberthed passenger ship performing a voyage between a port or place in India and a port or place outside India, shall note in writing on the statement or the additional statement referred to in section 257 the date and supposed cause of death

of any unberthed passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place where it may be intended to land unberthed passengers, and before any passenger leaves the ship, produce the statement with any additions made thereto—

(a) where such port or place is in India, to the certifying officer or such other officer as the Central Government may appoint in this behalf;

(b) where such port or place is outside India, to the Indian consular officer.

259. (1) Every ship carrying unberthed passengers and crew not exceeding one thousand in number, shall have on board as part of her complement at least one medical officer possessing such qualifications as may be prescribed.

Certain ships to carry medical officer and attendants.

(2) Every ship carrying unberthed passengers and crew exceeding one thousand in number shall, in addition to a medical officer, have on board as part of her complement such number of medical attendants as may be prescribed.

(3) Every ship carrying unberthed passengers shall be provided with a hospital with such medical stores and equipment as may be prescribed.

260. No owner, agent or master of an unberthed passenger ship shall carry or cause to be carried from any port or place outside India to any port or place in India a number of passengers greater than—

Bringing passengers from foreign port in excess of authorised number prohibited.

(a) the number allowed for the ship by or under this Part,  
or

(b) the number allowed by the licence or certificate, if any, granted in respect of the ship at her port or place of departure, whichever number is less.

261. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify, there shall be levied on the passage money paid by every passenger carried by an unberthed passenger ship departing or proceeding from any port or place in India a cess to be called the passenger welfare cess at such rate not exceeding five per cent. of the passage money as the Central Government may, by notification in the Official Gazette, specify, and different rates may be specified in respect of different classes of passengers and voyages.

Passenger welfare cess.

(2) The passenger welfare cess shall be collected by the owner or charterer of the unberthed passenger ship or the agent of the owner or charterer as an addition to the passage money and shall,

after deduction of such costs of collection, if any, as the Central Government may determine be paid to such authority as the Central Government may specify.

(3) The proceeds of the passenger welfare cess shall, after due appropriation made by Parliament by law, be utilised for the purpose of providing amenities to passengers travelling by unberthed passenger ships.

*Explanation.*—In this section, “passage money” means the total amount of all charges of whatever nature payable by a passenger in respect of his carriage on an unberthed passenger ship, and includes the charges, if any, for provision of food on board the ship, but does not include the cess payable under this section.

Power to make rules as to unberthed passenger ships.

262. The Central Government may, subject to the condition of previous publication, make rules to regulate, in the case of unberthed passenger ships or any class of such ships, all or any of the following matters, namely:—

(a) the classification of voyages with reference to the distance between the port of departure and the port of destination, the duration of the voyage, or any other consideration which the Central Government may think fit to take into account for the purpose;

(b) the seasons of fair weather and seasons of foul weather for purposes of any voyage;

(c) the space to be allowed for unberthed passengers in respect of different classes of voyages and for seasons of fair and foul weather;

(d) the disallowance of any space considered unsuitable by the surveyor for the carriage of unberthed passengers;

(e) the space to be set apart for alleyways, passages and the like;

(f) the provision of airing space for unberthed passengers;

(g) the scale according to which dining rooms, latrines, wash places, baths, dressing rooms and other amenities are to be provided;

(h) the provision of separate accommodation for women and children;

(i) the prohibition or regulation of the carriage of cargo in any space reserved for passengers;

(j) where the deck on which unberthed passengers are accommodated is not covered with wood, the nature of the sheathing to be provided in the space reserved for passengers;

(k) the disposal of baggage of passengers on board ship and the provision of separate space in the between-decks for the storage of light baggage;

(l) the conditions under which passengers may be allowed to be carried in the upper deck in seasons of foul weather;

(m) the provision of bunks for unberthed passengers or for any proportion of such passengers on any specified classes of voyages, and the size and other particulars relating to the bunks to be so provided;

(n) the scale on which food, fuel and water are to be supplied to passengers or to any class of passengers, and the quality of the food, fuel and water;

(o) the nature and extent of hospital accommodation and the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;

(p) the licensing and appointment of medical officers and attendants in cases where they are required by this Part to be carried;

(q) the boats, anchors and cables to be provided on board;

(r) the instruments for purposes of navigation to be supplied;

(s) the functions of the master, medical officer (if any) and other officers of the ship during the voyage;

(t) the access of between-decks passengers to the upper deck;

(u) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Part in that behalf;

(v) the time within which any ship of a specified class is to depart or proceed on her voyage after commencing to take passengers on board;

(w) the conditions under which live-stock may be allowed to be carried;

(x) the licensing, supervision and control of persons engaged in assisting persons to obtain unberthed passenger accommodation in ships departing or proceeding from any port or place in India and the prohibition of unlicensed persons from being so engaged;

(y) the manner of collection of the passenger welfare cess and matters incidental thereto;

(z) generally to carry out the purposes of this Part relating to unberthed passenger ships.

*Special provisions regarding pilgrim ships*

Bunks to be provided for pilgrims.

263. (1) Every pilgrim ship shall provide for each pilgrim a bunk of the prescribed size and particulars.

(2) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night so much of the upper deck as is not required for the airing space of the crew or for permanent structures:

Provided that the upper deck space available for pilgrims shall in no case be less than six superficial feet for each pilgrim on board.

Hospital accommodation.

264. There shall be a hospital on board every pilgrim ship offering such conditions relating to security, health and space, and capable of accommodating such proportion, not exceeding five per cent. of the maximum number of pilgrims which the ship is certified to carry, as may be prescribed.

Statements concerning pilgrims to be delivered before ship departs.

265. The master of every pilgrim ship departing or proceeding from any port or place in India shall sign a statement in duplicate in the prescribed form specifying the total number of all the pilgrims embarked and the number of pilgrims of each sex embarked and the number of the crew and such other particulars as may be prescribed, and shall deliver both copies to the certifying officer or such other officer as the Central Government may appoint in this behalf at the port or place and such officer shall thereupon, after having first satisfied himself that the entries are correct, countersign and return to the master one copy of the statement.

Pilgrim ship taking additional pilgrims at intermediate places.

266. In either of the following cases, namely:—

(a) if after a pilgrim ship has departed or proceeded on her voyage any additional pilgrims are taken on board at a port or place within India appointed under this Part for the embarkation of pilgrims, or

(b) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any port or place outside India,

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall make an additional statement specifying the number and the respective sexes of all the additional pilgrims.

Particulars relating to deaths of pilgrims on voyage.

267. The master of every pilgrim ship shall note in writing on the copy of the statement or the additional statement referred to in section 265 or section 266, the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim



ship arrives at her port or place of destination or at any port or place where it may be intended to discharge pilgrims, and before any pilgrims disembark, produce the statement, with any additions made thereto,—

(a) where such port or place is in India, to the certifying officer or such other officer as the Central Government may appoint in this behalf;

(b) where such port or place is outside India, to the Indian consular officer.

268. The master of every pilgrim ship arriving at any port or place in India at which it may be intended to discharge pilgrims, shall, before any pilgrims disembark, deliver a statement signed by him specifying the total number of all the pilgrims on board and the number of pilgrims of each sex and the number of the crew, and such other particulars as may be prescribed to the certifying officer or such other officer as the Central Government may appoint in this behalf at the port or place.

Statement concerning pilgrims to be delivered before pilgrims disembark in India.

269. (1) Every pilgrim ship carrying pilgrims and crew not exceeding one thousand in number shall have on board a medical officer possessing such qualifications as may be prescribed, and, if the number of pilgrims and crew carried exceeds one thousand, a second medical officer similarly qualified and also in all cases such medical attendants as may be prescribed.

Certain pilgrim ships to carry medical officers and attendants.

(2) A medical officer of every pilgrim ship shall perform such duties and functions, keep such diaries and submit such reports or other returns, as may be prescribed.

(3) No medical officer or attendant on a pilgrim ship shall charge any pilgrim on such ship for his services.

270. (1) Port clearance shall not be granted from any port in India to any pilgrim ship unless the master, owner or agent and two sureties resident in India have executed, in favour of the Central Government, a joint and several bond for the sum of ten thousand rupees or has given such other guarantee or security as may be acceptable to that Government covering all voyages which may be made by the ship in the current pilgrim season, conditioned that—

Bond where pilgrim ship proceeds on outward voyage.

(a) the master and medical officer shall comply with the provisions of this Part and the rules made thereunder, and

(b) the master, owner or agent, shall pay any sum claimed by the Central Government under sub-section (2) of section 277.

(2) A bond, guarantee or security may be given under this section covering any or all of the pilgrim ships owned by one owner, and in such cases the amount of the bond, guarantee or security shall be ten thousand rupees for each ship covered.

Medical inspection and permission required before embarkation of pilgrims.

271. (1) No pilgrim shall be received on board any pilgrim ship at any port or place in India unless and until he has been medically inspected, at such time and place, and in such manner, as the Central Government may fix in this behalf, nor until the certifying officer has given permission for the embarkation of pilgrims to commence.

(2) The medical inspection of female pilgrims shall, subject to any rules which may be made under this Act and as far as may be practicable, be carried out by women.

(3) No pilgrim shall be received on board any pilgrim ship unless he produces a medical certificate signed by a person who is duly qualified to grant such certificate, showing that such pilgrim—

(a) has been inoculated against cholera within such period before the inspection, as may be prescribed; and

(b) has been vaccinated against small-pox within such period before the inspection as may be prescribed:

Provided that the officer making the inspection may dispense with the certificate of vaccination, if in his opinion the pilgrim has marks showing that he has had small-pox.

(4) If, in the opinion of the officer making an inspection under this section, any pilgrim is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, such pilgrim shall not be permitted to embark.

(5) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated shall, before being taken on board a pilgrim ship, be disinfected, under the supervision of a medical officer appointed by the Central Government for the purpose, in such manner as may be prescribed.

Medical inspection after embarkation in certain cases.

272. (1) If in any case a pilgrim ship does not proceed on her voyage within forty-eight hours after all the pilgrims have been received on board, and there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the Central Government may direct.

(2) If on such inspection any person is found to be suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.

273. No pilgrim shall be received on board any pilgrim ship at any port or place in India unless he—

Pilgrims to arrange return passages.

(a) is in possession of a return ticket, or

(b) has deposited with the officer authorised in this behalf by the Central Government such sum for the purpose of defraying the cost of a return ticket as that Government may specify by notification in the Official Gazette;

Provided that the authorised officer may exempt any pilgrim from all or any of the aforesaid requirements, if he is satisfied that it is inexpedient, in the special circumstances of the case, to enforce them.

274. (1) Every pilgrim travelling on a pilgrim ship shall be entitled, on payment of his passage money and fulfilment of other prescribed conditions, if any, to receive a ticket in the prescribed form, and shall be bound to produce it to such officers and on such occasions as may be prescribed and otherwise to deal with it in the prescribed manner:

Issue or production of tickets.

Provided that no pilgrim, who has not been exempted under the proviso to section 273, shall be given a ticket other than a return ticket unless he has made the deposit required by that section.

(2) Any ticket issued to a pilgrim for a voyage on a pilgrim ship shall entitle him to receive food and water, on the scale and of the quantity prescribed and medicines free of further charge, throughout the voyage.

275. (1) Every pilgrim prevented from embarking under section 271, or removed from the ship under section 272, or otherwise prevented from proceeding shall be entitled to the refund of any passage money which he may have paid, and of any deposit which he may have made under section 273.

Refund of passage money and deposits.

(2) Any pilgrim who, within one year of his sailing from India, satisfies the Indian consular officer at Jeddah that he intends to return to India by a route other than the route by which he came from India, shall be entitled to a refund of any deposit made by him under section 273, or, if he is in possession of a return ticket, to a refund of half the passage money paid by him.

(3) Where any pilgrim dies in the Hedjaz or on the voyage thereto, any person nominated by him in this behalf in writing in

the prescribed manner, or, if no person has been so nominated, the legal representative of the pilgrim, shall be entitled to a refund of any deposit made by the pilgrim under section 273, or, if the pilgrim was in possession of a return ticket, to a refund of half the passage money paid by him.

(4) Where any pilgrim fails to return to India from the Hedjaz within one year of his sailing from India, or returns to India by a route other than the route by which he came from India, he or any person nominated by him in this behalf in writing in the prescribed manner shall be entitled to a refund of any deposit made by such pilgrim under section 273, or, if such pilgrim was in possession of a return ticket, to a refund of half the passage money paid by such pilgrim, except where such deposit or passage money has already been refunded under this section.

(5) Refunds under this section of deposits shall be subject to such conditions and of passage money to such deductions and conditions as may be prescribed.

Disposal of  
unclaimed  
passage  
money  
and deposits.

276. If any pilgrim—

(a) who is entitled to a refund of passage money under sub-section (1) of section 275, does not claim such refund within the prescribed period, or

(b) who has purchased a return ticket, does not on the basis of such ticket obtain a return passage from the Hedjaz within the prescribed period and the value of the return half of such ticket has not been refunded under section 275, or

(c) who is entitled under section 275 to a refund of any deposit made under section 273 does not claim such refund within the prescribed period,

such passage money or value or deposit shall, subject to the exercise of the rights conferred by sub-section (4) of section 275, be made over to such authority administering any fund maintained for the assistance of pilgrims as the Central Government may, by general or special order, designate in this behalf.

Cost of  
return  
journey of  
pilgrims on  
ships other  
than those  
for which  
return ticket  
is available.

277. (1) The master, owner or agent of every pilgrim ship shall make all arrangements for ensuring the return of all pilgrims in possession of a return ticket issued in India who are carried to the Hedjaz by such ship, within a period of ninety days after the Haj day in a year:

Provided that, for the purpose of computing the said period of ninety days, no period shall be taken into account during which the ship is prevented from carrying pilgrims on the return passage by

reason of the port of Jeddah having been declared by proper authority to be infected or by reason of war, disturbance or any other cause not arising from any act or default of the master, owner or agent.

(2) Where any such pilgrim who has notified to the prescribed authority in the prescribed manner his desire to embark for the return voyage is, owing to his inability to obtain accommodation within the period of ninety days aforesaid in a ship for which the return ticket is available, detained at Jeddah beyond the said period, the master, owner or agent of the ship in which such pilgrim was carried to the Hedjaz shall pay to the Central Government in respect of such pilgrim such sum not exceeding double the sum received by the master, owner or agent in respect of the return ticket as the Central Government claims as the cost of repatriating the pilgrim, together with a sum of rupees five for each day after the expiry of the period aforesaid during which the pilgrim has been detained at Jeddah.

(3) A certificate of such detention purporting to be made and signed by the Indian consular officer at Jeddah shall be received in evidence in any court in India without proof of the signature or of the official character of the person who has signed the same.

278. (1) The master, owner or agent of any ship which is intended to sail on a voyage as a pilgrim ship from any port or place in India shall, before advertising such ship for the conveyance of pilgrims or offering to convey any pilgrim by such ship or selling or permitting any person to sell a passage ticket to any pilgrim for conveyance by such ship, supply to the officer appointed in this behalf (hereinafter referred to as the pilgrim officer) at the port or place from which the ship is to commence the voyage, and at each port or place in India at which she is to touch for the purpose of embarking pilgrims, full particulars as to the name, tonnage and age of the ship, the maximum number of passage tickets of each class to be issued, the maximum price of each class of ticket, the probable date on which the ship is to sail from that port or place, the ports, if any, at which she is to touch, the place of her destination, and the probable date of her arrival thereat.

Notice of sailing of pilgrim ship.

(2) The master, owner or agent shall supply to the pilgrim officer, within three days from the date of demand, such further information in regard to the matters mentioned in sub-section (1) as that officer may in writing demand from him.

(3) (a) The master, owner or agent of the ship shall advertise at such port or place and in such manner as may be prescribed—

(i) the place of destination of the ship,

(ii) the price of each class of passage tickets which shall not be in excess of the price communicated to the pilgrim officer under sub-section (1), and

(iii) the provisional date of sailing from that port or place.

(b) The master, owner or agent shall also advertise the final date of sailing not less than fifteen days before such date.

(4) No master, owner or agent, shall—

(a) without reasonable cause, the burden of proving which shall lie upon him, fail or refuse to supply any particulars or information which he is by or under this section required to supply or supply false particulars or information; or

(b) advertise any ship for the conveyance of pilgrims, or offer to convey pilgrims by any ship, or sell or promise or permit any person to sell passage tickets to pilgrims for conveyance by any ship, without having first supplied the particulars required by sub-section (1) and in accordance with the provisions of that sub-section; or

(c) advertise a price for passage tickets at the port or place in excess of the price communicated, to the pilgrim officer under sub-section (1); or

(d) offer to convey pilgrims by any ship from any port or place in India or sell or promise or permit any person to sell passage tickets to pilgrims for conveyance by a ship from any such port or place without having advertised as required by clause (a) of sub-section (3) the matters specified in that clause; or

(e) sell or permit any person to sell to any pilgrim any passage ticket at a price in excess of the price communicated to the pilgrim officer under sub-section (1).

Compensation for delay in sailing.

279. (1) If a pilgrim ship fails to proceed from any port or place on the date advertised under clause (b) of sub-section (3) of section 278 as the final date of sailing therefrom, the master, owner or agent shall become liable to pay as compensation to each pilgrim who has paid his passage money on or before such date the sum of three rupees for each completed day during which the sailing of the ship is delayed after that date:

Provided that such compensation shall not be payable in respect of any period during which the departure of the ship is impossible owing to any cause not arising from the act or default of the master, owner or agent, and the burden of proving such cause shall lie on such master, owner or agent:

Provided further that where compensation has been paid or has become payable to any pilgrim in respect of delay in the sailing of the ship from any port or place and the sailing of the ship from any other port or place is thereafter delayed beyond the date advertised in that behalf, the pilgrim shall be entitled to compensation only in respect of any period by which the duration of such further delay exceeds the duration of the delay in respect of which he has already received or become entitled to compensation.

(2) In the event of such failure, the master, owner or agent shall be bound forthwith to inform the pilgrim officer at the port or place at which the delay occurs of the number of passage tickets of each class which have been issued for the voyage on or before the advertised final date of sailing.

(3) Any sum payable as compensation under sub-section (1) shall be paid on behalf of the pilgrims entitled thereto to the pilgrim officer at the port or place at which the delay occurs on receipt by the master, owner or agent of a notice from that officer specifying the sum payable, and that officer shall, in such manner as may be prescribed, pay to each such pilgrim the compensation paid in respect of his detention:

Provided that, if an objection is made by the master, owner or agent that the sum specified in any such notice or any part of such sum is not payable by him, the sum paid or, as the case may be, the balance thereof remaining after payment to the pilgrims entitled thereto of compensation the right to which is not in dispute, shall be held in deposit until the objection has been decided:

Provided further that, if for any reason the compensation due to any pilgrim cannot be paid to him at the time of embarkation or at or before the time of his disembarkation at the port of his destination, the sum so remaining unpaid shall be made over to such authority administering any fund maintained for the assistance of pilgrims as the Central Government may, by general or special order, designate in this behalf.

(4) If the master, owner or agent objects that the sum specified in the notice issued under sub-section (3) or any part thereof is not payable by him, he may, at the time of payment of such sum, give to the pilgrim officer notice of his objection, together with a statement of the grounds thereof, and the pilgrim officer shall thereupon either cancel or modify the aforesaid notice in accordance with the objection and refund the sum held in deposit under sub-section (3), or refer the objection for decision to a presidency magistrate or a magistrate of the first class exercising jurisdiction at the port or place at which the ship is delayed, whose decision

on such reference shall be final; and there shall be refunded to the master, owner or agent any amount allowed to him by such decision.

(5) On the failure of any pilgrim ship to proceed from any port or place on the date advertised under clause (b) of sub-section (3) of section 278 as the date of final sailing therefrom, the pilgrim officer at that port or place shall forthwith give notice of such failure to the officer authorised to grant port clearance to ships thereat, and such officer shall refuse port clearance to the pilgrim ship until the master, owner or agent produces to him a certificate of the pilgrim officer that all sums payable by way of compensation under this section up to the day on which the ship is to proceed have been paid.

Substitution  
of ships.

280. Notwithstanding anything contained in section 278 or section 279, where any ship which has been advertised under section 278 for the conveyance of pilgrims has been or is likely to be delayed beyond the advertised final date of sailing, the owner or agent may, with the permission in writing of the pilgrim officer, substitute for it any other ship which is capable of carrying not less than the same number of pilgrims of each class, and on such permission being given the advertisement shall be deemed to have been made in respect of the ship so substituted, and all the provisions of those sections shall apply accordingly in respect of such ship.

Sanitary  
taxes payable  
by master  
of pilgrim  
ship.

281. The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited and such amount shall be included in the cost of the tickets issued to the pilgrims.

Power to  
make rules  
relating to  
pilgrim ships.

282. The Central Government may, subject to the condition of previous publication, make rules to regulate all or any of the following matters, namely:—

(a) the boats, anchors and cables to be provided on board pilgrim ships;

(b) the instruments to be supplied for purposes of navigation;

(c) the fittings and other appliances to be provided in the upper and between-decks for the comfort and convenience of pilgrims;

(d) the scale on which, and the manner in which, cooked and uncooked food and water are to be supplied to pilgrims, and the quality of such food and water;

(e) the kinds of food to be provided for pilgrims on payment, in addition to the food to be supplied in accordance with



the rules made under clause (d), and the charges which may be made for the same;

(f) the quality, quantity and storage of the cargo to be carried;

(g) the allotment of the upper deck space between the various classes of pilgrims;

(h) the distribution or disposal of the baggage of pilgrims on board ship;

(i) the nature and extent of the hospital accommodation and the medical stores, disinfectants, and other appliances and fittings to be provided on board free of charge to pilgrims for maintaining health, cleanliness and decency;

(j) the form of the statements to be furnished by the master under sections 265 and 268, and the particulars to be entered therein;

(k) the appointment of medical officers and other attendants in cases where they are required by the provisions of this Part relating to pilgrim ships to be carried, and the diaries, reports and other returns to be kept or submitted by such medical officers;

(l) the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship;

(m) the manner in which, and the persons by whom, the medical inspection of women shall be carried out;

(n) the manner in which deposits shall be made for the purposes of section 273, and any matter in respect of which provision is, in the opinion of the Central Government, necessary or expedient for the purpose of giving effect to the provisions of that section;

(o) the manner in which provisional bookings may be made, the acceptance of deposits for such bookings and the forfeiture of any part of the deposit in cases in which any such bookings are cancelled;

(p) the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon, and the amount of the sanitary taxes to be included in the cost thereof;

(q) the refund of passage money and deposits under section 275 and the manner in which persons shall be nominated under that section for the purpose of entitling them to a refund;

(n) the period after which unclaimed passage money and deposits liable to be refunded shall be disposed of in the manner specified in section 276;

(s) the manner in which the dates of sailing shall be advertised under section 278; the appointment of pilgrim officers for the purposes of that section and sections 279 and 280; the manner in which payment shall be made under section 279 to pilgrims and to the pilgrim officer; and the procedure to be followed by masters, owners or agents and by pilgrim officers and magistrates in proceedings under that section;

(t) the functions of the master, medical officer and other ship's officers during the voyage;

(u) the local limits within which, and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Part in that behalf;

(v) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board;

(w) providing that a pilgrim shall not be received on board any pilgrim ship, unless he is in possession of a passport or a pilgrim's pass, regulating the issue of pilgrims' passes, and prescribing the form of and fees which may be charged for such passes; and

(x) generally, to carry out the provisions of this Part relating to pilgrim ships.

## PART IX

### SAFETY

283. (1) The Central Government, if satisfied,—

(a) that the Government of any country has accepted or denounced the Load Line Convention or, as the case may be, the Safety Convention; or

(b) that the Load Line Convention or, as the case may be, the Safety Convention extends, or has ceased to extend to any territory;

may, by notification in the Official Gazette, make a declaration to that effect.

Countries to which Load Line Convention or Safety Convention applies.

(2) Any declaration made by or on behalf of the Central Government before the commencement of this Act in any form whatsoever, that the Government of any country has accepted or denounced the Load Line Convention or that the said Convention extends or has ceased to extend to any territory shall be deemed to have been made under sub-section (1).

*Construction of ships*

284. (1) The Central Government may make rules (in this Act called the construction-rules), prescribing the requirements that the hull, equipment and machinery of Indian passenger ships shall comply with. Construction rules.

(2) The rules made under sub-section (1) shall include such requirements as appear to the Central Government to implement the provisions of the Safety Convention prescribing the requirements that the hull, equipment and machinery of passenger ships shall comply with, except so far as those provisions are implemented by the rules for life saving appliances, the radio rules, the rules for direction finders or the collision regulations.

(3) The powers conferred on the Central Government by this section shall be in addition to the powers conferred by any other provision enabling it to prescribe the requirements that passenger ships shall comply with.

*Prevention of collisions*

285. (1) The Central Government may make regulations for the prevention of collisions at sea, and may thereby regulate the lights and shapes to be carried and exhibited, the fog and distress signals to be carried and used, and the steering and sailing rules to be observed by Indian ships and sailing vessels registered in India. Collision regulations.

(2) The collision regulations, together with the provisions of this Part relating thereto or otherwise relating to collisions, shall be observed by all foreign ships and sailing vessels within Indian jurisdiction, and in any case arising in any court in India concerning matters arising within Indian jurisdiction, such ships and sailing vessels shall, so far as respects the collision regulations and the said provisions of this Act, be treated as if they were Indian ships or sailing vessels registered in India, as the case may be.

286. (1) The owner or master of every ship and the owner or master of every sailing vessel to which section 285 applies shall obey the collision regulations, and shall not carry or exhibit any lights or shapes or use any fog or distress signals, other than those required by the said regulations. Observance of collision regulations.

(2) If any damage to person or property arises from the non-observance by any such ship or sailing vessel of any of the collision regulations, the damage shall be deemed to have been occasioned by the wilful default of the person in charge of the ship or the sailing vessel, as the case may be, at the time unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulations necessary.

Inspectors  
of lights and  
shapes and  
fog and dis-  
tress signals.

287. (1) The Central Government may appoint persons to inspect in any port ships or sailing vessels to which the collision regulations apply, for the purpose of seeing that such ships or sailing vessels are properly provided with lights and shapes and with the means of making fog and distress signals, in pursuance of such regulations.

(2) If an inspector appointed under sub-section (1) finds that any ship or sailing vessel is not so provided, he shall give to the owner, master or tindal, notice in writing pointing out the deficiency, and also what, in his opinion, is requisite in order to remedy the same.

(3) Every notice so given shall be communicated in the prescribed manner to the customs collector at any port from which such ship or sailing vessel may seek to clear; and no customs collector to whom such communication is made shall grant such ship a port clearance or allow her to proceed to sea without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship or sailing vessel is properly provided with lights and shapes and with the means of making fog and distress signals in pursuance of the said regulations.

*Life saving appliances and fire appliances*

Power to  
make rules  
as to life  
saving  
appliances.

288. (1) The Central Government may, subject to the condition of previous publication, make rules prescribing the life saving appliances to be carried by every Indian ship going to sea from any port or place in India.

(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 arranging of ships into classes, having regard to the services in which they are employed, the nature and duration of the voyage and the number of persons carried;

(b) the number, description and mode of construction of the boats, life-rafts, line throwing appliances, life-jackets and life-buoys to be carried by ships according to the classes in which the ships are arranged;

(c) the equipment to be carried by any such boats and rafts and the method to be provided to get the boats and other life saving appliances into the water, including oil for use in stormy weather;

(d) the provision in ships of a proper supply of lights in-extinguishable in water and fitted for attachment to life-buoys;

(e) the quantity, quality and description of buoyant apparatus to be carried on board ships either in addition to or in substitution for boats, life-rafts, life-jackets and life-buoys;

(f) the position and means of securing the boats, life-rafts, life-jackets, life-buoys and buoyant apparatus;

(g) the marking of boats, life-rafts, and buoyant apparatus so as to show their dimensions and the number of persons authorised to be carried on them;

(h) the manning of life boats and the qualifications and certificates of life-boatmen;

(i) the provision to be made for mustering the persons on board and for embarking them in the boats (including provision for the lighting of, and the means of ingress to and egress from, different parts of the ship);

(j) the provision of suitable means situated outside the engine room whereby any discharge of water into the boats can be prevented;

(k) the assignment of specific duties to each member of the crew in case of emergency;

(l) the manner in which a notice given under section 287 or section 290 shall be communicated to the customs collector;

(m) the practice in ships of boat drills, and fire drills;

(n) the provision in ships of means of making effective distress signals by day and by night;

(o) the provision in ships, engaged on voyages in which pilots are likely to be embarked, of suitable pilot ladders, and of ropes, lights and other appliances designed to make the use of such ladders safe;

(p) the periodical examination of any appliances or equipment required by any rules made under this Act to be carried by ships; and

(q) the fees to be charged for the grant of any certificate under sub-section (3) of section 290.

Rules relating to fire appliances.

289. The Central Government may make rules prescribing the methods to be adopted and the appliances to be carried by every Indian ship going to sea from any port or place in India for the prevention, detection and extinction of fire on the ship (hereinafter referred to as fire appliances).

Inspection of life saving appliances and fire appliances.

290. (1) A surveyor may, at any reasonable time, inspect any ship for the purpose of seeing that she is properly provided with life saving and fire appliances in conformity with the rules made under this Act.

(2) If the said <sup>Surveyor</sup> surveys finds that the ship is not so provided he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(3) Every notice so given shall be communicated in the prescribed manner to the customs collector of any port at which the ship may seek to obtain a clearance and the ship shall be detained until a certificate signed by such surveyor is produced to the effect that the ship is properly provided with life saving and fire appliances in conformity with the said rules.

*Installation of radio telegraphy, radio telephony and direction finders*

Radio requirements.

291. (1) Every Indian ship, being a passenger ship, and every other Indian ship of five hundred tons gross tonnage or more, shall, in accordance with the rules made under section 296, be provided with a radio installation and shall maintain a radio telegraph service or a radio telephone service of the prescribed nature and shall be provided with such certificated operators and watchers as may be prescribed:

Provided that the Central Government may, by notification in the Official Gazette, exempt from the obligation imposed by this section any ship or class of ships if it is of opinion that having regard to the nature of the voyage on which the ship or ships are engaged or other circumstances of the case, the provision of a radio installation is unnecessary or unreasonable.

(2) The radio installation required under the said rules to be provided for a passenger ship or for any other ship of sixteen hundred tons gross or more shall be a radio telegraph installation; and that required to be provided for a ship of less than sixteen hundred tons gross, other than a passenger ship, shall be either a

radio telegraph installation or a radio telephone installation at the option of the owner.

292. Every Indian ship of sixteen hundred tons gross or more shall be provided with a radio direction finder of the prescribed description.

Radio direction finding apparatus.

293. (1) Every ship compulsorily equipped under the provisions of section 291 with a radio telegraph or radio telephone installation shall maintain in the radio telegraph or radio telephone room a radio log in which shall be entered such particulars relating to the operation of the radio telegraph or radio telephone installation and as to the maintenance of the radio telegraph or radio telephone service as may be prescribed.

Radio log.

(2) The provisions of section 215 shall apply to the radio log kept under this section as if it were an official log.

294. (1) A radio inspector may inspect any ship for the purpose of seeing that she is properly provided with a radio telegraph or radio telephone installation and certificated operators in conformity with this Part, and for this purpose may go on board any ship at all reasonable times and do all things necessary for the proper inspection of the ship for the purpose of the provisions of this Part relating to radio telegraphy or radio telephony and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the installation, and of the certificates of the operators and watchers on the ship:

Powers of radio inspectors.

Provided that if a valid safety convention certificate is produced in respect of any ship other than an Indian ship, the inspection shall be limited to seeing that the ship is provided with a radio telegraph or radio telephone installation and that the number of certificated operators corresponds substantially with the particulars stated in the certificate.

(2) If a radio inspector finds that a ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(3) Every notice given under sub-section (2) shall be communicated in the prescribed manner to the customs collector of any port at which the ship may seek to obtain port clearance,

who shall order that the ship shall be detained until a certificate under the hand of a radio inspector is produced to the effect that the ship is properly provided with a radio, telegraph or radio telephone installation and certified operators and watchers in conformity with this Part.

Application of this Part to ships other than Indian ships.

295. The provisions of this Part relating to radio telegraphy, radio telephony and direction finders shall apply to ships other than Indian ships while they are within any port in India in like manner as they apply to Indian ships.

Power to make rules.

296. (1) The Central Government may make rules to carry out the purposes of this Part relating to radio telegraphy or radio telephony.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the nature of the radio telegraph or radio telephone installation and radio direction finding apparatus to be provided and of the service to be maintained, the form of the radio log and the particulars to be entered therein, and the number, grades and qualifications of certified operators to be carried;

(b) the manner in which a notice given under section 294 shall be communicated to the customs collector;

(c) the charging of fees for the grant of the certificate referred to in sub-section (3) of section 294, the amount of such fees and the manner in which they shall be recoverable.

#### *Signalling lamps*

Signalling lamps.

297. Every Indian ship exceeding one hundred and fifty tons gross shall, when proceeding to sea from any port or place in India to any port or place outside India, be provided with a signalling lamp of the type approved by the Central Government.

#### *Stability information*

Information about ship's stability.

298. (1) There shall be carried on board every Indian ship whose keel was laid after the 15th day of June, 1953, such information in writing about the ship's stability as is necessary for the guidance of the master in loading and ballasting the ship.



(2) The said information shall be in such form as may be approved by the Central Government (which may approve the provision of the information in the form of a diagram or drawing only) and shall be based on the determination of the ship's stability by means of an inclining test of the ship:

Provided that the Central Government may allow the information to be based on a similar determination of the stability of a sister ship.

(3) When any information under this section is provided for any ship, the owner shall send a copy thereof to the Director-General.

(4) It is hereby declared that for the purpose of section 208 (which requires documents relating to navigation to be delivered by the master of a ship to his successor) information under this section shall be deemed to be a document relating to the navigation of the ship.

*Safety certificates, safety equipment certificates, safety radio telegraphy certificates, safety radio telephony certificates, exemption certificates, etc.*

299. (1) Where, on receipt of a declaration of survey granted under Part VIII in respect of a passenger ship, the Central Government is satisfied that the ship complies with the construction rules and with the provisions of this Act and the rules made thereunder relating to life saving and fire appliances and radio telegraphy or radio telephony installation applicable to such ship and is provided with lights and shapes and the means of making fog and distress signals required by the collision regulations, the Central Government may issue in respect of the ship a certificate in the prescribed form to be called a safety certificate.

Safety certificates and qualified safety certificates for passenger ships.

(2) Where on receipt of a declaration of survey granted under Part VIII in respect of a passenger ship the Central Government is satisfied that there is in force in respect of the ship an exemption certificate granted under section 302 and that the ship complies with all the requirements referred to in sub-section (1) other than those from which the ship is exempt under that certificate, the Central Government may issue in respect of the ship a certificate in the prescribed form to be called a qualified safety certificate.

300. (1) If in respect of any Indian ship of five hundred tons gross or more, not being a passenger ship, the Central Government is satisfied that the ship complies with the provisions of this Act and the rules made thereunder relating to life saving and fire appliances and radio telegraphy or radio telephony installation applicable to such ship and is provided with lights and shapes and

Safety equipment and equipment certificates for ships other than passenger ships.

the means of making fog and distress signals required by the collision regulations, the Central Government may issue in respect of the ship—

(a) where the ship performs voyages between ports or places in India and ports or places outside India, a certificate in the prescribed form to be called a safety equipment certificate;

(b) where the ship performs voyages only between ports or places in India, a certificate in the prescribed form to be called an equipment certificate.

(2) <sup>where</sup> when in respect of any such ship as is referred to in sub-section (1), there is in force an exemption certificate granted under section 302 and the Central Government is satisfied that the ship complies with all the requirements referred to in that sub-section other than those from which the ship is exempt under that certificate, the Central Government may issue a certificate in the prescribed form to be called a qualified safety equipment certificate or a qualified equipment certificate, as the case may be.

Radio tele-  
graphy and  
telephony  
certificates.

301. The owner or master of any Indian ship, not being a passenger ship, which is required by the provisions of section 291 to be provided with a radio telegraphy or radio telephony installation shall, if the Central Government is satisfied that the ship complies with all the provisions of this Act and the rules made thereunder relating to radio telegraphy or radio telephony applicable to such ship, receive—

(a) in the case of a ship performing voyages between ports in India and ports outside India, a certificate in the prescribed form to be called a safety radio telegraphy certificate, or as the case may be, a safety radio telephony certificate;

(b) in the case of a ship performing voyages only between ports in India, a certificate in the prescribed form to be called a radio telegraphy certificate, or as the case may be, a radio telephony certificate.

Exemption  
certificates.

302. The owner or master of an Indian ship which is exempt from any of the provisions of the construction rules or of this Act and the rules made thereunder relating to life saving and fire appliances and radio telegraphy or radio telephony installation shall, on application to the officer appointed in this behalf by the Central Government, receive from such officer a certificate in the prescribed form to be called an exemption certificate.

303. (1) A safety equipment certificate, a qualified safety equipment certificate, an equipment certificate and a qualified equipment certificate issued under this Part shall be in force for twenty-four months from the date of its issue or for such shorter period as may be specified in the certificate.

Duration of certificates.

(2) Any certificate issued under this Part not specified in subsection (1) shall be in force for twelve months from the date of its issue or for such shorter period as may be specified in the certificate.

(3) The Central Government or any person authorised by it in this behalf may grant an extension of any certificate issued under this Part in respect of an Indian ship for a period not exceeding one month from the date when the certificate would but for the extension have expired, or if the ship is absent from India on that date, for a period not exceeding five months from that date.

(4) Notwithstanding anything contained in this section a certificate issued under this Part shall not remain in force after notice is given by the authority issuing the certificate to the owner or master of the ship in respect of which it has been issued that that authority has cancelled the certificate.

Modification of safety convention certificates as respects life saving appliances.

304. (1) If an Indian ship in respect of which a safety certificate issued under section 299 is in force has on board in the course of a particular voyage a total number of persons less than the number stated in the certificate to be the number for which the life saving appliances on the ship provide, the owner or master of the ship may obtain from the authority issuing the certificate, or any person authorised by the authority for the purpose, a memorandum to be attached to the certificate stating the total number of persons carried on the ship on that voyage, and the modifications which may be made for the purpose of that voyage in the particulars with respect to life saving appliances stated in the certificate.

(2) Where a valid safety convention certificate is produced in respect of a passenger ship other than an Indian ship and there is attached to the certificate a memorandum which—

(a) has been issued by or under the authority of the Government of the country in which the ship is registered, and

(b) modifies for the purpose of any particular voyage, in view of the number of persons actually carried on that voyage, the particulars stated in the certificate with respect to life saving appliances,

the certificate shall have effect for the purpose of that voyage as if it were modified in accordance with the memorandum.

Recognition of certificates issued outside India.

305. A valid safety convention certificate issued in respect of a ship other than an Indian ship by the Government of the country, to which the ship belongs shall, subject to such rules as the Central Government may make in this behalf, have the same effect in India as the corresponding certificate issued in respect of an Indian ship under this Part.

Issue of certificates to foreign ships in India and Indian ships in foreign countries.

306. (1) The Central Government may, at the request of the Government of a country to which the Safety Convention applies, cause an appropriate safety convention certificate to be issued in respect of a ship registered in that country, if it is satisfied in like manner as in the case of an Indian ship that such certificate can properly be issued, and, where a certificate is issued at such a request, it shall contain a statement that it has been so issued.

(2) The Central Government may request the Government of a country to which the Safety Convention applies, to issue an appropriate safety convention certificate in respect of an Indian ship and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purpose of this Act as if it had been issued by the Central Government.

Prohibition on proceeding to sea without certificates.

307. (1) No Indian passenger ship shall proceed on a voyage from any port or place in India to any port or place outside India unless there is in force in respect of the ship either—

(a) a safety certificate issued under section 299; or

(b) a qualified safety certificate issued under section 299 and an exemption certificate issued under section 302;

being a certificate which by the terms thereof is applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged.

(2) No sea-going Indian ship, of five hundred tons gross or more, not being a passenger ship, shall proceed on a voyage from any place in India to any place outside India unless there is in force in respect of the ship—

(a) such certificate or certificates as would be required in her case by the provisions of sub-section (1) if she were a passenger ship, or

(b) a safety equipment certificate issued under section 300 and a safety radio telegraphy certificate or, as the case may be, a safety radio telephony certificate issued under section 301, or

(c) a qualified safety equipment certificate issued under section 300 and an exemption certificate issued under section 302

being certificates which by the terms thereof are applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged.

(3) No sea-going Indian ship of five hundred tons gross or more, not being a passenger ship, shall proceed on a voyage between ports or places in India unless there is in force in respect of the ship—

- (a) an equipment certificate issued under section 300;
- (b) a qualified equipment certificate issued under section 300 and an exemption certificate issued under section 302;
- (c) a radio telegraphy certificate or a radio telephony certificate issued under section 301 or an exemption certificate issued under section 302;

being a certificate which by the terms thereof is applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged.

(4) The master of every ship to which this section applies shall produce to the customs collector from whom a port clearance for the ship is demanded the certificate or certificates required by the foregoing provisions of this section to be in force when the ship proceeds to sea, and the port clearance shall not be granted and the ship may be detained until the said certificate or certificates are so produced.

308. (1) The master of every ship other than an Indian ship being a passenger ship or being a ship of five hundred tons gross or more belonging to a country to which the Safety Convention applies, shall produce a valid safety convention certificate to the customs collector from whom a clearance for the ship is demanded in respect of a voyage from a port or place in India to a port or place outside India and a clearance shall not be granted and the ship may be detained until such a certificate is so produced.

Production of certificates by ships other than Indian ships.

(2) Where a valid safety convention certificate is produced in respect of a ship other than an Indian ship, the ship shall not be deemed to be unsafe for the purpose of section 342 by reason of the defective condition of her hull, equipment or machinery unless it appears that the ship cannot proceed to sea without danger to the passengers or crew owing to the fact that the actual condition of the ship does not correspond substantially with the particulars stated in the certificate.

309. The provisions of sections 228 to 231 (inclusive) shall apply to and in relation to every certificate issued by the Central Government under sections 299, 300, 301 and 302 in the same manner as they apply to and in relation to a certificate of survey.

Application of certain sections to certificates.

## Load lines

Ships except from provisions relating to load lines.

310. (1) Save as otherwise provided in this section, the provisions of this Part relating to load lines shall apply to all sailing vessels as they apply to ships, and accordingly, the expression "ship" in the said provisions of this Part shall be construed as including a sailing vessel.

(2) The provisions of this Part relating to load lines shall not apply to—

(a) any sailing vessel of less than one hundred and fifty tons gross employed in plying coastwise between ports situated within India, Pakistan, Burma and Ceylon;

(b) any ship solely engaged in fishing;

(c) any pleasure yacht.

(3) The Central Government may, on such conditions as it may think fit, exempt from the provisions of this Part relating to load lines—

(a) any ship plying between the near neighbouring ports of two or more countries, if the Central Government and the Governments of those countries are satisfied that the sheltered nature and conditions of the voyages between those ports make it unreasonable or impracticable to apply to ships so plying the provisions of this Part relating to load lines;

(b) any ship plying between near neighbouring ports of the same country, if the Central Government is satisfied as aforesaid;

(c) wooden ships of primitive build, if the Central Government considers that it would be unreasonable or impracticable to apply the said provisions to them;

(d) any class of coasting ships of less than one hundred and fifty tons gross which do not carry cargo.

Power to make rules as to load lines.

311. The Central Government may, subject to the condition of previous publication, make rules (hereafter in this Act referred to as the load line rules) regulating the survey of ships for the purpose of assignment and marking of load lines and prescribing the conditions (hereafter in this Act referred to as the conditions of assignment) on which load lines may be assigned.

Marking of deck line and load lines.

312. (1) No Indian ship, being a ship of which the keel was laid after the 30th day of June, 1932, and not being exempt from the provisions of this Part relating to load lines, shall proceed to sea unless—

(a) the ship has been surveyed in accordance with the load line rules;

(b) the ship complies with the conditions of assignment;

(c) the ship is marked on each side with a mark (hereafter in this Act referred to as a deck line) indicating the position of the uppermost complete deck as defined by the load line rules, and with marks (hereafter in this Act referred to as load lines) indicating the several maximum depths to which the ship can be safely loaded in various circumstances prescribed by the load line rules;

(d) the deck line and load lines are of the description required by the load line rules, the deck line is in the position required by those rules, and the load lines are of the number required by such of those rules as are applicable to the ship; and

(e) the load lines are in the position required by such of the load line rules as are applicable to the ship.

(2) No Indian ship, being a ship of which the keel was laid before the 1st day of July, 1932, and not being exempt from the provisions of this Part relating to load lines, shall proceed to sea unless—

(a) the ship has been surveyed and marked in accordance with clauses (a), (c) and (d) of sub-section (1);

(b) the ship complies with the conditions of assignment in principle and also in detail so far as, in the opinion of the Central Government, is reasonable and practicable having regard to the efficiency of the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters provided by the arrangements, fittings and appliances existing on the ship at the time when she is first surveyed under this section; and

(c) the load lines are either in the position required by clause (e) of sub-section (1) or in the position required by the tables used by the Board of Trade of the United Kingdom on the 31st day of December, 1906, for fixing the position of load lines, subject to such modifications of those tables and of the application thereof as were in force immediately before the 5th day of July, 1930.

(3) Any ship attempting to proceed to sea without being surveyed and marked as required by this section may be detained until she has been surveyed and marked, and any ship which does not comply with the conditions of assignment to the extent required in her case by this section shall be deemed to be unsafe for the purpose of section 336.

Submersion  
of load lines.

313. (1) An Indian ship (not being exempt from the provisions of this Part relating to load lines) shall not be so loaded as to submerge in salt water, when the ship has no list, the appropriate load line on each side of the ship, that is to say, the load line indicating or purporting to indicate the maximum depth to which the ship is for the time being entitled under the load line rules to be loaded.

(2) Without prejudice to any other proceedings under this Act, any ship which is loaded in contravention of this section may be detained until she ceases to be so loaded.

Maintenance  
of load line  
marks.

314. (1) No owner or master of an Indian ship which has been marked in accordance with the foregoing provisions of this Part, shall without reasonable cause, fail to keep the ship so marked.

(2) No person shall conceal, remove, alter, deface or obliterate, or suffer any person under his control to conceal, remove, alter, deface or obliterate any mark placed on any such ship in accordance with the foregoing provisions of this Part except with the authority of a person entitled under the load line rules to authorise the alteration of the mark or except for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.

Inspection  
of ships  
with res-  
pect to load  
lines.

315. A surveyor may inspect any Indian ship for the purpose of seeing that the provisions of this Part relating to load lines have been complied with and for this purpose may go on board the ship at all reasonable times and do all things necessary for the proper inspection of the ship and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the ship.

#### Load line certificates

Issue of  
load line  
certificates  
and effect  
thereof.

316. (1) Where an Indian ship has been surveyed and marked in accordance with the foregoing provisions of this Part and complies with the conditions of assignment to the extent required in her case by those provisions, there shall be issued to the owner of the ship on his application and on payment of the prescribed fee,—

(a) in the case of a ship of one hundred and fifty tons gross or more which carries cargo or passengers, a certificate to be called "an international load line certificate"; and

(b) in the case of any other ship, a certificate to be called "an Indian load line certificate".



(2) Every such certificate shall be issued either by the Central Government or by such other person as may be authorised in that behalf by the Central Government and shall be issued in such form and manner as may be prescribed by the load line rules.

(3) The Central Government may request the Government of a country to which the Load Line Convention applies, to issue a load line certificate in the form of an international load line certificate under that Convention in respect of an Indian ship and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Part as if it had been issued by the Central Government.

(4) Where a load line certificate, issued in pursuance of this section and for the time being in force, is produced in respect of a ship, the ship shall, for the purposes of the foregoing provisions of this Part, be deemed to have been surveyed as required by those provisions, and if the deck line and load lines on the ship are of the number and description required by the load line rules and the position of the deck line and load lines corresponds with the position specified in the certificate, the ship shall be deemed to be marked as required by those provisions.

317. (1) Every load line certificate issued by or under the authority of the Central Government, shall, unless it is renewed in accordance with the provisions of sub-section (2), expire at the end of such period, not exceeding five years from the date of its issue, as may be specified therein.

Duration,  
renewal and  
cancellation  
of certifi-  
cates.

(2) Any such load line certificate may, after a survey not less effective than the survey required by the load line rules before the issue of the certificate, be renewed from time to time by the Central Government or by any person authorised by the Central Government to issue a load line certificate, for such period not exceeding five years on any occasion as the Central Government or the person renewing the certificate thinks fit.

(3) The Central Government may cancel any such load line certificate in force in respect of a ship if it has reason to believe that—

(a) material alterations have taken place in the hull or superstructures of the ship which affect the position of the load lines; or

(b) the fittings and appliances for the protection of openings, the guard rails, the freeing ports or the means of access to the

crew's quarters have not been maintained on the ship in as effective a condition as they were in when the certificate was issued; or

(c) the marking of the deck line and load lines on the ship have not been properly maintained:

Provided that no such order shall be made unless the person concerned has been given an opportunity of making a representation against the order proposed.

(4) The owner of every ship in respect of which any such certificate has been issued shall, so long as the certificate remains in force, cause the ship to be surveyed in the prescribed manner once at least in each year after the issue of the certificate for the purpose of seeing whether the certificate should, having regard to sub-section (3), remain in force, and if the ship is not so surveyed, the Central Government may cancel the certificate:

Provided that the Central Government, if it thinks fit in any particular case, may extend the said period of one year.

(5) Where any such load line certificate has expired or been cancelled, the Central Government may require the owner or master of the ship to which the certificate relates to deliver up the certificate as it directs and the ship may be detained until such requirement has been complied with.

(6) On the survey of any ship in pursuance of this section there shall be paid by the owner of the ship such fee as may be prescribed.

Ships not to proceed to sea without certificate.

318. (1) No Indian ship shall proceed to sea unless there is in force in respect of the ship a load line certificate issued under the provisions of section 316.

(2) The master of every Indian ship shall produce to the customs collector, from whom a port clearance for the ship is demanded, the certificate which is required by the foregoing provisions of this section to be in force when the ship proceeds to sea, and the port clearance shall not be granted, and the ship may be detained, until that certificate is so produced.

Publication of load line certificate and particulars relating to depth of loading.

319. (1) When a load line certificate has been issued in pursuance of the foregoing provisions of this Part in respect of an Indian ship other than a home-trade ship of less than two hundred tons gross—

(a) the owner of the ship shall forthwith on the receipt of the certificate cause it to be posted up in some conspicuous place on board the ship, and to be kept so posted up and legible

so long as the certificate remains in force and the ship is in use; and

(b) the master of the ship, before making any other entry in any official log book, shall enter or cause to be entered therein the particulars as to the position of the deck line and load lines specified in the certificate.

(2) Before any such ship leaves any dock, wharf, harbour or other place for the purpose of proceeding to sea, the master thereof shall—

(a) enter or cause to be entered in the official log book such particulars relating to the depth to which the ship is for the time being loaded as the Central Government may by rules made in this behalf prescribe; and

(b) cause a notice, in such form and containing such of the said particulars as may be required by the said rules, to be posted up in some conspicuous place on board the ship and to be kept so posted up and legible until the ship arrives at some other dock, wharf, harbour or place:

Provided that the Central Government may by the said rules exempt home-trade ships or any class of home-trade ships from the requirements of clause (b) of this sub-section.

320. (1) Before an agreement with the crew of any ship in respect of which a load line certificate is in force, is signed by any member of the crew, the master of the ship shall insert in the agreement the particulars as to the position of the deck line and load lines specified in the certificate.

Insertion of particulars as to load lines in agreements with crew.

(2) In the case of a ship required by this Act to engage its crew before a shipping master, the shipping master shall not proceed with the engagement of the crew until—

(a) there is produced to him a load line certificate for the time being in force in respect of the ship; and

(b) he is satisfied that the particulars required by this section have been inserted in the agreement with the crew.

*Special provisions as to ships other than Indian ships*

321. The Central Government may, at the request of a country to which the Load Line Convention applies, issue an international load line certificate in respect of a ship registered in that country if it is satisfied in like manner as in the case of an Indian ship that it can properly issue the certificate and where the certificate is issued at such a request, it shall contain a statement that it has been so issued.

Issue of load line certificates to foreign ships in India and Indian ships in foreign countries.

Recognition of load line certificates issued outside India.

322. An international load line certificate issued in respect of any ship other than an Indian ship by the Government of the country to which the ship belongs shall, subject to such rules as the Central Government may make in this behalf, have the same effect in India as a load line certificate issued in respect of an Indian ship under this Part.

Inspection and control of Load Line Convention ships other than Indian ships.

323. (1) A surveyor may, at any reasonable time, go on board any ship other than an Indian ship being a ship of one hundred and fifty tons gross or more, carrying cargo or passengers and registered in a country to which the Load Line Convention applies, when such ship is within any port in India, for the purpose of demanding the production of any load line certificate for the time being in force in respect of the ship.

(2) If a valid international load line certificate is produced to the surveyor on any such demand, the surveyor's powers of inspecting the ship with respect to load line shall be limited to seeing—

(a) that the ship is not loaded beyond the limits allowed by the certificate;

(b) that the position of the load lines on the ship corresponds with the position specified in the certificate;

(c) that no material alterations have taken place in the hull or superstructures of the ship which affect the position of the load lines;

(d) that the fittings and appliances for the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters, have been maintained on the ship in as effective a condition as they were in when the certificate was issued.

(3) If it is found on any such inspection that the ship is loaded beyond the limits allowed by the certificate, the ship may be detained and the provisions of section 342 shall apply.

(4) If it is found on any such inspection that the load lines on the ship are not in the position specified in the certificate, the ship may be detained until the matter has been rectified to the satisfaction of the surveyor.

(5) If it is found on any such inspection that the ship has been so materially altered in respect of the matters referred to in

clauses (c) and (d) of sub-section (2) that the ship is manifestly unfit to proceed to sea without danger to human life, the ship shall be deemed to be unsafe for the purpose of section 336 (in the case of an Indian ship) or for the purpose of section 342 (in the case of any other ship):

Provided that where the ship has been detained under either of the last-mentioned sub-sections, the Central Government shall order the ship to be released as soon as it is satisfied that the ship is fit to proceed to sea without danger to human life.

(6) If a valid international load line certificate is not produced to the surveyor on such demand as aforesaid, the surveyor shall have the same power of inspecting the ship, for the purpose of seeing that the provisions of this Part relating to load lines have been complied with as if the ship were an Indian ship.

(7) For the purposes of this section a ship shall be deemed to be loaded beyond the limits allowed by the certificate if she is so loaded as to submerge in salt water, when the ship has no list, the appropriate load line on each side of the ship, that is to say, the load line appearing by the certificate to indicate the maximum depth to which the ship is for the time being entitled under the Load Line Convention, to be loaded.

324. The master of every ship other than an Indian ship, being a ship of one hundred and fifty tons gross or more carrying cargo or passengers, and belonging to a country to which the Load Line Convention applies, shall produce to the customs collector from whom a port clearance for the ship from any port in India is demanded—

Certificate of Load Line Convention ships other than Indian ships to be produced to customs.

(a) in a case where port clearance is demanded in respect of a voyage to a port outside India, a valid international load line certificate;

(b) in a case where port clearance is demanded in respect of any other voyage, either a valid international load line certificate or a valid Indian load line certificate;

and the port clearance shall not be granted, and the ship may be detained, until the certificate required by this section is so produced.

325. The provisions of section 312 shall apply to ships other than Indian ships proceeding or attempting to proceed to sea from ports in India as they apply to Indian ships subject to the following modifications, namely:—

Marking of deck line and load lines of ships other than Indian ships.

(a) the said section shall not apply to a ship other than an Indian ship if a valid international load line certificate is produced in respect of the ship; and

(b) subject to the provisions of clause (a), a ship other than an Indian ship which does not comply with the conditions of assignment to the extent required in her case by section 323 shall be deemed to be unsafe for the purpose of section 342.

Submersion  
of load line  
of ships  
other than  
Indian ships.

326. The provisions of section 313 shall apply to ships other than Indian ships, while they are within any port in India as they apply to Indian ships subject to the following modifications, namely:—

(a) no ship of one hundred and fifty tons gross or more carrying cargo or passengers and belonging to a country to which the Load Line Convention applies, shall be detained and no proceedings shall be taken against the owner or master thereof by virtue of the said section except after an inspection by a surveyor as provided by section 323; and

(b) the expression "the appropriate load line" in relation to any ship other than an Indian ship shall mean—

(i) in the case of a ship in respect of which there is produced on such an inspection as aforesaid a valid international load line certificate, the load line appearing by the certificate to indicate the maximum depth to which the ship is for the time being entitled under the Load Line Convention, to be loaded;

(ii) in any other case, the load line which corresponds with the load line indicating the maximum depth to which the ship is for the time being entitled under the load line rules to be loaded, or, if no load line on the ship corresponds as aforesaid, the lowest load line thereon.

Inspection of  
ships other  
than Indian  
ships  
belonging  
to non-Con-  
vention  
countries.

327. The provisions of section 315 shall apply, in the same manner as they apply to Indian ships, to all ships registered in a country to which the Load Line Convention does not apply while they are within Indian jurisdiction.

Load line  
certificates  
of ships  
other than  
Indian ships.

328. (1) The provisions of this Part relating to the issue, effect, duration, renewal and cancellation of Indian load line certificates shall apply to ships other than Indian ships as they apply to Indian ships subject to the following modifications, namely:—

(a) any such certificate may be issued in respect of any such ship as in respect of an Indian ship provided that any such

certificate issued in respect of a ship of one hundred and fifty tons gross or more carrying cargo or passengers and registered in a country to which the Load Line Convention applies, shall only be valid so long as the ship is not plying on voyages from or to any port in India to or from any place outside India and shall be endorsed with a statement to that effect and shall be cancelled by the Central Government if it has reason to believe that the ship is so plying; and

(b) the survey required for the purpose of seeing whether the certificate should remain in force shall take place when required by the Central Government.

(2) If the Central Government is satisfied—

(a) that provision has been made for the fixing, marking and certifying of load lines by the law in force in any country outside India with respect to ships (or any class or description of ships) of that country and has also been so made (or has been agreed to be so made) for recognising Indian load line certificates as having the same effect in ports of that country as certificates issued under the said provision, and

(b) that the said provision for the fixing, marking and certifying of load lines is based on the same principles as the corresponding provisions of this Part relating to load lines and is equally effective,

It may, by notification in the Official Gazette, direct that load line certificates issued in pursuance of the said provision or in respect of ships (or that class or description of ships) of that country, shall have the same effect for the purpose of this Part as Indian load line certificates:

Provided that such direction shall not apply to ships of one hundred and fifty tons gross or more carrying cargo or passengers and registered in countries to which the Load Line Convention applies, if such ships are engaged in plying on voyages from or to any port in India to or from any port outside India.

329. The master of every ship registered in a country to which the Load Line Convention does not apply shall produce to the customs collector from whom a port clearance for the ship from any port in India is demanded, either an Indian load line certificate or a certificate having effect under this Act as such a certificate, being a certificate for the time being in force in respect of the ship, and the port clearance shall not be granted and the ship may be detained until the certificate required by this section is so produced.

Certificates to be produced to customs by ships other than Indian ships registered in non-Convention countries.

Power to  
make rules  
as to timber  
cargo.

330. (1) The Central Government shall, subject to the condition of previous publication, make rules (hereafter in this section referred to as the timber cargo rules) as to the conditions on which timber may be carried as cargo in any uncovered space on the deck of any Indian ship.

(2) The timber cargo rules may prescribe a special load line to be used only when the ship is carrying timber as cargo on deck and the conditions on which such special load line may be assigned, and may further prescribe either generally or with reference to particular voyages and seasons the manner and position in which such timber is to be stowed and the provisions which are to be made for the safety of the crew.

(3) Any surveyor may at any reasonable time, inspect any Indian ship carrying timber as cargo in any uncovered space on her deck for the purpose of seeing whether the timber cargo rules have been complied with.

(4) The foregoing provisions of this section and the timber cargo rules shall apply to ships other than Indian ships while they are within Indian jurisdiction as they apply to Indian ships.

*Dangerous goods and grain cargoes*

Carriage of  
dangerous  
goods.

331. (1) The Central Government may make rules for regulating in the interests of safety the carriage of dangerous goods in ships.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the classification of such goods, the packing, marking and stowing of such goods or any class of goods and the fixing of the maximum quantity of any such class of goods which may be carried in different ships or classes of ships.

(3) The owner, master or agent of a ship carrying or intending to carry any dangerous goods as cargo and about to make a voyage from a port in India shall furnish in advance the prescribed particulars of the ship and the cargo to such authority as may be prescribed for the purpose.

(4) A surveyor may inspect the ship for the purpose of securing that any rules under this section are complied with.

(5) If any of the rules made in pursuance of this section is not complied with in relation to any ship, the ship shall be deemed for the purpose of this Part to be an unsafe ship.



(6) This section shall apply, in the same manner as it applies to Indian ships, to ships other than Indian ships while they are within any port in India or are embarking or disembarking passengers or are loading or discharging cargo or fuel within Indian jurisdiction.

*Explanation.*—In this section the expression “dangerous goods” means goods which by reason of the nature, quantity or mode of stowage are either singly or collectively liable to endanger the life or the health of persons on or near the ship or to imperil the ship, and includes all substances within the meaning of the expression “explosive” as defined in the Indian Explosives Act, 1884, and any other goods which the Central Government may by notification in the Official Gazette specify as dangerous goods but shall not include any fog or distress signals or like equipment required to be carried by the ship under this Act or the rules or regulations thereunder.

4 of 1884.

332. (1) Where grain is loaded on board any Indian ship any- <sup>Carriage of</sup> where or is loaded within any port in India on board any other <sup>grain.</sup> ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting; and if such precautions as aforesaid are not taken, the owner or the master of the ship or any agent of the owner who was charged with the loading or with sending the ship to sea laden with grain shall be guilty of an offence under this sub-section and the ship shall be deemed for the purposes of this Part to be unsafe by reason of improper loading.

(2) Where any ship which is loaded with grain outside India without all necessary and reasonable precautions having been taken to prevent the grain from shifting, enters any port in India so laden, the owner or master of the ship shall be guilty of an offence under this sub-section and the ship shall be deemed for the purposes of this Part to be unsafe by reason of improper loading.

(3) On the arrival at a port in India from a port outside India of any ship carrying a cargo of grain, the master shall cause to be delivered at the port to such customs or other officer as may be specified by the Central Government in this behalf, a notice stating—

(a) the draught of water and free board of the said ship after the loading of the cargo was completed at the final port of loading; and

(b) the following particulars of the grain carried, namely:—

(i) the kind of grain and quantity thereof stated in cubic feet, quarters, bushels or tons weight;

(ii) the mode in which the grain is stowed; and

(iii) the precautions taken to prevent the grain from shifting.

(4) Any person authorised in this behalf by general or special order of the Central Government may, for securing the observance of the provisions of this section, inspect a ship carrying a cargo of grain and the mode in which such cargo is stowed therein.

(5) The Central Government may, subject to the condition of previous publication, make rules in relation to the loading of ships with grain generally or of ships of any class specifying the precautions to be taken, and when such precautions have been prescribed, they shall be treated for the purposes of this section to be included in the expression "necessary and reasonable precautions".

(6) In this section, the expression "grain" includes wheat, maize, oats, rye, barley, rice, pulses and seeds, and the expression "ship carrying a cargo of grain" means a ship carrying a quantity of grain exceeding one-third of the ship's registered tonnage reckoning one hundred cubic feet or two tons of weight of grain as equivalent to one ton of registered tonnage.

#### *Sub-division load lines*

Submersion  
of sub-division  
load  
lines in case  
of passenger  
ships.

333. (1) Where—

(a) an Indian passenger ship has been marked with sub-division load lines, that is to say, load lines indicating the depth to which the ship may be loaded having regard to the extent to which she is sub-divided and to the space for the time being allotted to passengers, and

(b) the appropriate sub-division load line, that is to say, the sub-division load line appropriate to the space for the time being allotted to passengers on the ship, is lower than the load line indicating the maximum depth to which the ship is for the time being entitled under the provisions of this Part to be loaded,

the ship shall not be so loaded as to submerge in salt water the appropriate sub-division load line on each side of the ship when the ship has no list.

(2) Without prejudice to any other proceedings under this Act, any such ship which is loaded in contravention of this section may be detained until she ceases to be so loaded.

*Unseaworthy ships*

334. (1) Every person who sends or attempts to send an Indian ship to sea from any port in India in such an unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that he used all reasonable means to insure her being sent to sea, in a seaworthy state or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be guilty of an offence under this sub-section.

Unseaworthy ship not to be sent to sea.

(2) Every master of an Indian ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, be guilty of an offence under this sub-section.

(3) For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

(4) No prosecution under this section shall be instituted except by, or with the consent of, the Central Government.

(5) A ship is "unseaworthy" within the meaning of this Act when the materials of which she is made, her construction, the qualifications of the master, the number, description and qualifications of the crew including officers, the weight, description and stowage of the cargo and ballast, the condition of her hull and equipment, boilers and machinery are not such as to render her in every respect fit for the proposed voyage or service.

335. (1) In every contract of service, express or implied between the owner of an Indian ship and the master or any seaman thereof, and in every contract of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to ensure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state during the voyage.

Obligation of owner to crew with respect to seaworthiness.

(2) For the purpose of seeing that the provisions of this section have been complied with, the Central Government may, either at the request of the owner or otherwise, arrange for a survey of the hull, equipment or machinery of any sea-going ship by a surveyor.

*Detention of unsafe ships by the Central Government*

Power to detain unsafe ship and procedure for detention.

336. (1) Where an Indian ship in any port to which the Central Government may specially extend this section is an unsafe ship, that is to say, is by reason of the defective condition of her hull, equipment or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, such ship may be provisionally detained for the purpose of being surveyed and either finally detained or released as follows, namely:—

(a) The Central Government, if it has reason to believe, on complaint or otherwise, that any such ship is unsafe, may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed.

(b) A written statement of the grounds of such detention shall be forthwith served on the master of such ship.

(c) When the Central Government provisionally orders the detention of a ship, it shall either refer the matter to the court of survey for the port where the ship is detained, or forthwith appoint some competent person to survey such ship and report thereon; and, on receiving the report, may either order the ship to be released or if in its opinion the ship is unsafe, may order her to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the Central Government thinks necessary for the protection of human life.

(d) Before an order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against such report, in the manner prescribed, to the court of survey for the port where the ship is detained.

(e) Where a ship has been provisionally detained and a person has been appointed under this section to survey such ship, the owner or master of the ship, at any time before such person makes that survey, may require that he shall take with him as assessor such person, as the owner or master may select, being a person named in the list of assessors for the court of survey

or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience. If the surveyor and assessor agree that the ship should be detained or released, the Central Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no right of appeal. If the surveyor and assessor differ in their report, the Central Government may act as if the requisition had not been made, and the owner or master shall have a right of such appeal touching the report of the surveyor as is hereinbefore provided in this section.

(f) Where a ship has been provisionally detained, the Central Government may at any time if it thinks it expedient, refer the matter to the court of survey for the port where the ship is detained.

(g) The Central Government may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

(2) Any person appointed by the Central Government for the purpose (in this Act referred to as a detaining officer) shall have the same power as the Central Government has under this section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person to survey her; and if he thinks that a ship so detained by him is not unsafe, may order her to be released.

(3) A detaining officer shall forthwith report to the Central Government any order made by him for the detention or release of a ship.

(4) A ship detained under this section shall not be released by reason of her Indian register being subsequently closed.

*Costs of detention and damages incidental thereto*

337. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner or the master, for the provisional detention of a ship, the Central Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

Liability of Central Government for costs and damage when ship wrongly detained.

338. If a ship is finally detained under this Part, or if it appears that a ship provisionally detained was at the time of such detention unsafe, or if a ship is detained in pursuance of any provision of this Part which provides for the detention of a ship until a certain event

Liability of shipowner for costs when ship rightly detained.

occurs, the owner of the ship shall be liable to pay to the Central Government its costs of and incidental to the detention and survey of the ship; and the ship shall not be released until such costs are paid.

Method of calculating costs of detention and survey.

339. For the purposes of this Act, the costs of and incidental to any proceeding before a court of survey, and a reasonable amount in respect of the remuneration of the surveyor or any person appointed to represent the Central Government before the court, shall be deemed to be part of the costs of the detention and survey of the ship.

Power to require from complainant security for costs, etc.

340. When a complaint is made to the Central Government or a detaining officer that an Indian ship is unsafe, it shall be in the discretion of the Central Government or the detaining officer, as the case may be, to require the complainant to give security to the satisfaction of the Central Government or the detaining officer for the costs and compensation which such complainant may become liable to pay as hereinafter mentioned:

Provided that, where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of the Central Government or the detaining officer frivolous or vexatious, such security shall not be required; and the Central Government or the detaining officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this Part.

Costs, etc., payable by Central Government recoverable from complainant.

341. Where a ship is detained in consequence of any complaint and the circumstances are such that the Central Government is liable under this Part to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Central Government all such costs and compensation as the Central Government incurs, or is liable to pay, in respect of the detention and survey of the ship.

Application to ships other than Indian ships of provisions as to detention.

342. When a ship other than an Indian ship is in a port in India and is, whilst at that port, unsafe by reason of the defective condition of her hull, equipment or machinery, or by reason of overloading or improper loading, the provisions of this Part with respect to the detention of ships shall apply to that ship as if she were an Indian ship with the following modifications, namely:—

(a) a copy of the order for the provisional detention of the ship shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port in which such ship is detained;

(b) the consular officer, at the request of the owner or master of the ship, may require that the person appointed by the Central Government to survey the ship shall be accompanied by such person as the consular officer may select, and in that case, if the surveyor and that person agree, the Central Government shall cause the ship, to be detained or released accordingly; but, if they differ, the Central Government may act as if the requisition had not been made, and the owner and master shall have the like right of appeal to a court of survey touching the report of the surveyor as is hereinbefore provided in the case of an Indian ship; and

(c) where the owner or master of the ship appeals to the court of survey, the consular officer, at the request of the owner or master, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were an Indian ship, would be appointed otherwise than by the Central Government.

343. (1) Nothing in this Part—

(a) prohibiting a ship from proceeding to sea unless there are in force in relation to the ship, or are produced the appropriate certificates issued under this Part or the appropriate safety convention certificates;

(b) requiring information about a ship's stability to be carried on board;

shall, unless in the case of information about a ship's stability the Central Government otherwise orders, apply to any troopship, pleasure yacht or fishing vessel or to any ship of less than five hundred tons gross other than a passenger ship or to any ship not fitted with mechanical means of propulsion.

(2) Nothing in the preceding sub-section shall affect the exemption conferred by any other provision of this Act.

(3) Nothing in this Part shall apply to any ship other than an Indian ship while it is within any port in India if it would not have been within such port but for stress of weather or any other circumstance that neither the master nor the owner nor the charterer, if any, of the ship could have prevented or forestalled.

344. (1) The Central Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Part relating to certificates granted under this Part.

Exemption of ships from certain provisions of this Part.

Power to make rules respecting certificates under this Part.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the form of any certificate issued under this Part;
- (b) the circumstances in which a certificate purporting to have been issued outside India in accordance with the provisions of the Safety Convention or the Load Line Convention shall be recognised in India;
- (c) the fees to be charged in respect of any certificate issued under this Part and the manner in which such fees may be recovered.

## PART X

### COLLISIONS, ACCIDENTS AT SEA AND LIMITATION OF LIABILITY

Division of  
loss in case  
of collision.

345. (1) Whenever by the fault of two or more ships damage or loss is caused to one or more of them or to the cargo of one or more of them or to any property on board one or more of them, the liability to make good the damage or loss shall be in proportion to the degree in which each ship was at fault:

Provided that—

- (a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally;
- (b) nothing in this section shall operate so as to render any ship liable for any loss or damage to which her fault has not contributed;
- (c) nothing in this section shall operate so as to render any person under any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.

(2) For the purposes of this Part, references to damage or loss caused by the fault of a ship shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable in law by way of damages.

Damages for  
personal  
injury.

346. (1) Whenever loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and of any other ship or ships, the liability of the owners of the ships concerned shall be joint and several.

(2) Nothing in this section shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by



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the person injured, or any person entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

347. (1) Whenever loss of life or personal injuries are suffered by a person on board a ship owing to the fault of that ship and of any other ship or ships, and a proportion of the damages is recovered from the owner of one of the ships which exceeds the proportion in which she was in fault, the said owner may recover by way of contribution the amount of the excess from the owners of the other ship or ships to the extent to which those ships were respectively in fault:

Right of contribution.

Provided that no amount shall be so recovered which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

(2) In addition to any other remedy provided by law, the person entitled to any contribution under sub-section (1) shall, for the purpose of recovering the contribution, have, subject to the provisions of this Act, the same rights and powers as the persons entitled to sue for damages in the first instance.

348. In every case of collision between two ships it shall be the duty of the master or person in charge of each ship, if and so far as he can do so without danger to his own ship, crew and passengers, if any—

Duty of master of ship to assist in case of collision.

(a) to render to the other ship, her master, crew and passengers, if any, such assistance as may be practicable and may be necessary to save them from any danger caused by the collision and to stay by the other ship until he has ascertained that she has no need of further assistance, and

(b) to give to the masters or persons in charge of the other ships the name of his own ship and of the port to which she belongs and also the names of the ports from which she comes and to which she is bound.

349. In every case of collision in which it is practicable so to do, the master of every ship concerned shall, immediately after the occurrence, cause a statement thereof and of the circumstances under which the same occurred to be entered in the official log book, if any, and the entry shall be signed by the master and also by the mate or one of the crew.

Collision to be entered in official log.

Report to  
Central  
Government  
of accidents  
to ships.

350. When a ship has sustained or caused any accident occasioning loss of life or any serious injury to any person or has received any material damage affecting her seaworthiness or her efficiency either in her hull or is so altered in any part of her machinery as not to correspond with the particulars contained in any of the certificates issued under this Act in respect of the ship, the owner or master shall, within twenty-four hours after the happening of the accident or damage or as soon thereafter as possible, transmit to the Central Government or the nearest principal officer a report of the accident or damage and of the probable cause thereof stating the name of the ship, her official number, if any, her port of registry and the place where she is.

Notice of  
loss of In-  
dian ship to  
be given to  
Central Gov-  
ernment.

351. If the owner or agent of any Indian ship has reason, owing to the non-appearance of the ship or to any other circumstance, to apprehend that the ship has been wholly lost, he shall, as soon as conveniently may be, send to the Central Government notice in writing of the loss and of the probable cause thereof stating the name of the ship, her official number, if any, and her port of registry.

Limitation of  
liability of  
owner for  
damage.

352. (1) The owner of a ship, whether an Indian ship or not, shall not, if any loss of life or personal injury to any person, or any loss of or damage to any property or rights of any kind, whether movable or immovable is caused without his actual fault or privity,—

(a) if no claim for damages in respect of loss of or damage to property or rights arises, be liable for damages in respect of loss of life or personal injury to an aggregate amount exceeding two hundred rupees for each ton of the ship's tonnage; or

(b) if no claim for damages in respect of loss of life or personal injury arises, be liable for damages in respect of loss of or damage to property or rights to an aggregate amount exceeding one hundred rupees for each ton of the ship's tonnage; or

(c) if claims for damages in respect of loss of life or personal injury and also claims for damages in respect of loss of or damage to property or rights arise, be liable for damages to an aggregate amount exceeding two hundred rupees for each ton of the ship's tonnage:

Provided that in such a case claims for damages in respect of loss of life or personal injury shall, to the extent of an aggregate amount of one hundred rupees for each ton of the ship's tonnage, have priority over claims for damages in respect of loss of or damage to property or rights, and, as regards the

balance of the aggregate amount of two hundred rupees for each ton of the ship's tonnage, the unsatisfied portion of the first-mentioned claims shall rank *pari passu* with the last-mentioned claims.

(2) The provisions of this section shall extend and apply to the owners, builders or other persons interested in any ship built at any port or place in India, from and including the launching of such ship until the registration thereof under the provisions of this Act.

(3) The provisions of this section shall apply in respect of claims for damages in respect of loss of life, personal injury and loss of or damage to property or rights arising on any single occasion, and in the application of the said provisions, claims for damages in respect of loss, injury or damage arising out of two or more distinct occasions shall not be combined.

(4) For the purposes of this section a ship's tonnage shall be determined in such manner as the Central Government may by general or special order, specify.

## PART XI

### NAVIGATION

353. No person on any Indian ship shall, when the ship is going ahead, give a helm or steering order containing the word "starboard" or "right" or any equivalent of "starboard" or "right" unless he intends that the head of the ship shall move to the "right" or give a helm or steering order containing the word "port" or "left" or any equivalent of "port" or "left" unless he intends that the head of the ship shall move to the left.

Method of giving helm orders.

354. The master of any Indian ship on meeting with dangerous ice, a dangerous derelict, a tropical storm or any other direct danger to navigation shall send information accordingly by all means of communication at his disposal and in accordance with such rules as the Central Government may make in this behalf to ships in the vicinity and to such authorities on shore as may be prescribed by those rules.

Duty to report dangers to navigation.

*Explanation.*—For the purpose of this section the expression "tropical storm" means a hurricane, typhoon, cyclone or other storm of a similar nature, and the master of a ship shall be deemed to have met with a tropical storm if he has reason to believe that there is such a storm in the vicinity.

Obligation to render assistance on receiving signal of distress.

355. (1) The master of an Indian ship on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress shall proceed with all speed to the assistance of the persons in distress (informing them if possible that he is doing so) unless he is unable or in the special circumstances of the case considers it unreasonable or unnecessary to do so or unless he is released from such obligation under the provisions of sub-section (3) or sub-section (4).

(2) Where the master of any ship in distress has requisitioned any Indian ship that has answered his call, it shall be the duty of the master of the requisitioned ship to comply with the requisition by continuing to proceed with all speed to the assistance of the persons in distress unless he is released from the obligation under the provisions of sub-section (4).

(3) The master shall be released from the obligation imposed by sub-section (1) as soon as he is informed of the requisition of one or more ships other than his own and that the requisition is being complied with by the ship or ships requisitioned.

(4) The master shall be released from the obligation imposed by sub-section (1), and if his ship has been requisitioned, from the obligation imposed by sub-section (2), if he is informed by the persons in distress or by the master of any ship that has reached the persons in distress that assistance is no longer required.

(5) If the master of an Indian ship on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress is unable or in the special circumstances of the case considers it unreasonable or unnecessary to go to the assistance of the persons in distress, he shall forthwith cause a statement to be entered in the official log book or, if there is no official log book, cause other record to be kept of his reasons for not going to the assistance of those persons.

(6) The master of every Indian ship for which an official log is required shall enter or cause to be entered in the official log book every signal of distress or message that a vessel, aircraft or person is in distress at sea.

Power to make rules as to signals.

356. The Central Government may, subject to the condition of previous publication, make rules prescribing—

(a) the manner of communicating information regarding dangers to navigation, and the authorities on shore to whom such information is to be communicated;

(b) the signals which shall be signals of distress and of urgency, respectively;

(c) the circumstances in which, and the purposes for which, any such signal is to be used, and the circumstances in which it is to be revoked; and

(d) the speed at which any message sent by radio telegraphy in connection with such signal is to be transmitted.

## PART XII

### INVESTIGATIONS AND INQUIRIES

357. In this Part, the word "coasts" includes the coasts of creeks and tidal rivers. Definition of "coasts".

358. (1) For the purpose of investigations and inquiries under this Part, a shipping casualty shall be deemed to occur when— Shipping casualties and report thereof.

(a) on or near the coasts of India, any ship is lost, abandoned, stranded or materially damaged;

(b) on or near the coasts of India, any ship causes loss or material damage to any other ship;

(c) any loss of life ensues by reason of any casualty happening to or on board any ship on or near the coasts of India;

(d) in any place, any such loss, abandonment, stranding, material damage or casualty as above mentioned occurs to or on board any Indian ship, and any competent witness thereof is found in India;

(e) any Indian ship is lost or is supposed to have been lost, and any evidence is obtainable in India as to the circumstances under which she proceeded to sea or was last heard of.

(2) In the cases mentioned in clauses (a), (b) and (c) of sub-section (1), the master, pilot, harbour master or other person in charge of the ship, or (where two ships are concerned) in charge of each ship at the time of the shipping casualty, and

in the cases mentioned in clause (d) of sub-section (1), where the master of the ship concerned or (except in the case of a loss) where the ship concerned proceeds to any place in India from the place where the shipping casualty has occurred, the master of the ship,

shall, on arriving in India, give immediate notice of the shipping casualty to the officer appointed in this behalf by the Central Government.

Report of shipping casualties to Central Government.

**359.** (1) Whenever any such officer as is referred to in sub-section (2) of section 358 receives credible information that a shipping casualty has occurred, he shall forthwith report in writing the information to the Central Government; and may proceed to make a preliminary inquiry into the casualty.

(2) An officer making a preliminary inquiry under sub-section (1) shall send a report thereof to the Central Government or such other authority as may be appointed by it in this behalf.

Application to court for formal investigation.

**360.** The officer appointed under sub-section (2) of section 358, whether he has made a preliminary inquiry or not, may, and, where the Central Government so directs, shall make an application to a court empowered under section 361, requesting it to make a formal investigation into any shipping casualty, and the court shall thereupon make such investigation.

Court empowered to make formal investigation.

**361.** A magistrate of the first class specially empowered in this behalf by the Central Government and a presidency magistrate shall have jurisdiction to make formal investigations into shipping casualties under this Part.

Power of court of investigation to inquire into charges against masters, mates and engineers.

**362.** (1) Any court making a formal investigation into a shipping casualty may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing the shipping casualty.

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer, in the course of an investigation, the court shall, before the commencement of the inquiry, cause to be furnished to him a statement of the case upon which the inquiry has been directed.

Power of Central Government to direct inquiry into charges of incompetency or misconduct.

**363.** (1) If the Central Government has reason to believe that there are grounds for charging any master, mate or engineer with incompetency or misconduct, otherwise than in the course of a formal investigation into a shipping casualty, the Central Government,—

(a) if the master, mate or engineer holds a certificate under this Act, in any case;

(b) if the master, mate or engineer holds a certificate under the law of any country outside India, in any case where the incompetency or misconduct has occurred on board an Indian ship;

may transmit a statement of the case to any court having jurisdiction under section 361, which is at or nearest to the place where it may be convenient for the parties and witnesses to attend, and may direct that court to make an inquiry into that charge.

(2) Before commencing the inquiry, the court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Central Government.

364. For the purpose of any inquiry under this Part into any charge against a master, mate or engineer, the court may summon him to appear, and shall give him an opportunity of making a defence either in person or otherwise.

Opportunity to be given to person to make defence.

365. For the purpose of any investigation or inquiry under this Part, the court making the investigation or inquiry shall, in respect of compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, have the same powers as are exercisable by that court in the exercise of its criminal jurisdiction.

Power of court as to evidence and regulation of proceedings.

366. (1) A court making a formal investigation shall constitute as its assessors not less than two and not more than four persons, of whom one shall be a person conversant with maritime affairs and the other or others shall be conversant with either maritime or mercantile affairs:

Assessors.

Provided that, where the investigation involves, or appears likely to involve, any question as to the cancellation or suspension of the certificate of a master, mate or engineer, two of the assessors shall be persons having also experience in the merchant service.

(2) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings, but the exercise of all powers conferred on the court by this Part or any other law for the time being in force shall rest with the court.

(3) The assessors shall be chosen from a list to be prepared from time to time by the Central Government.

367. If any court making an investigation or inquiry under this Part thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer, subject, nevertheless, to any general or special instructions from the Central Government, to enter any vessel; and any officer so authorised may

Power to arrest witnesses and enter ships.

for the purpose of enforcing the entry, call to his aid any officer of police or customs or any other person.

Power to  
commit for  
trial and  
bind over  
witnesses.

368. Whenever, in the course of any such investigation or inquiry, it appears that any person has committed in India an offence punishable under any law in force in India, the court making the investigation or inquiry may (subject to such rules consistent with this Act as the High Court may from time to time make) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all its powers as a criminal court.

Report by  
court to Cen-  
tral Govern-  
ment.

369. (1) The court shall, in the case of all investigations or inquiries under this Part, transmit to the Central Government a full report of the conclusions at which it has arrived together with the evidence.

(2) Where the investigation or inquiry affects a master or an officer of a ship other than an Indian ship who holds a certificate under the law of any country outside India, the Central Government may transmit a copy of the report together with the evidence to the proper authority in that country.

Powers of  
court as to  
certificates  
granted by  
Central Go-  
vernment.

370. (1) A certificate of a master, mate or engineer which has been granted by the Central Government under this Act may be cancelled or suspended—

(a) by a court holding a formal investigation into a shipping casualty under this Part if the court finds that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by the wrongful act or default of such master, mate or engineer;

(b) by a court holding an inquiry under this Part into the conduct of the master, mate or engineer if the court finds that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct or in a case of collision has failed to render such assistance or give such information as is required by section 348.

(2) At the conclusion of the investigation or inquiry, or as soon thereafter as possible, the court shall state in open sitting the decision to which it may have come with respect to the cancellation or suspension of any certificate and, if suspension is ordered, the period for which the certificate is suspended.

(3) Where the court cancels or suspends a certificate, the court shall forward it to the Central Government together with the report which it is required by this Part to transmit to it.



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371. Where it appears to the court holding an investigation or inquiry that having regard to the circumstances of the case an order of cancellation or suspension under section 370 is not justified, the court may pass an order censuring the master, mate or engineer in respect of his conduct.

Power of court to censure master, mate or engineer.

372. (1) A magistrate of the first class specially empowered in this behalf by the Central Government or a presidency magistrate, may remove the master of any ship within his jurisdiction if the removal is shown to his satisfaction to be necessary.

Power of court to remove master and appoint new master.

(2) The removal may be made upon the application of the owner of any ship or his agent, or of the consignee of the ship, or of any certificated officer or of one-third or more of the crew of the ship.

(3) The magistrate may appoint a new master instead of the one removed, but where the owner, agent or consignee of the ship is within his jurisdiction, such an appointment shall not be made without the consent of that owner, agent or consignee.

(4) The magistrate may also make such order and require such security in respect of the costs of the matter as he thinks fit.

#### Marine Board

373. Whenever—

(a) a complaint is made to an Indian consular officer or a senior officer of any ship of the Indian Navy in the vicinity (hereinafter referred to as naval officer) by the master or any member of the crew of an Indian ship and such complaint appears to the Indian consular officer or naval officer, as the case may be, to require immediate investigation; or

(b) the interest of the owner of an Indian ship or of the cargo thereof appears to an Indian consular officer or naval officer, as the case may be, to require it; or

(c) a complaint is made to an Indian consular officer or a naval officer against the master or any of the officers of an Indian ship; or

(d) any Indian ship is lost, abandoned or stranded at or near the place where an Indian consular officer or naval officer may be or whenever the crew or part of the crew of any Indian ship which has been lost, abandoned or stranded arrives at that place; or

(e) any loss of life or any serious injury to any person has occurred on board an Indian ship at or near that place;

the Indian consular officer or the naval officer, as the case may be, may, in his discretion, convene a Board of Marine Inquiry to

Convening of Marine Boards outside India.

investigate the said complaint or allegation or the matter affecting the said interest or the cause of the loss, abandonment or the stranding of the ship or of the loss of life or of the injury to the person.

**Constitution and procedure of Marine Board.**

**374. (1)** A Marine Board shall consist of the officer convening the Board and two other members.

(2) The two other members of the Marine Board shall be appointed by the officer convening the Marine Board from among persons conversant with maritime or mercantile affairs.

(3) The officer convening the Marine Board shall be the presiding officer thereof.

(4) A Marine Board shall, subject to the provisions of this Act, have power to regulate its own procedure.

**Decisions of Marine Board to be by majority.**

**375.** Where there is a difference of opinion among members of the Marine Board, the decision of the majority of the members shall be the decision of the Board.

**Powers of Marine Board.**

**376. (1)** A Marine Board may, after investigating and hearing the case—

(a) if it is of opinion that the safety of an Indian ship or her cargo or crew or the interest of the owner of an Indian ship or of the owner of the cargo thereof requires it, remove the master and appoint another qualified person to act in his stead;

(b) if it is of opinion that any master or officer of an Indian ship is incompetent or has been guilty of any act of misconduct or in a case of collision has failed to render such assistance or give such information as is required by section 348 or that loss, abandonment or stranding of or serious damage to any ship, or loss of life or serious injury to any person has been caused by the wrongful act or default of any master or ship's officer of an Indian ship, suspend the certificate of that master or ship's officer for a stated period:

Provided that no such certificate shall be suspended unless the master or officer concerned has been furnished with a statement of the case in respect of which investigation has been ordered and he has also been given an opportunity of making a defence either in person or otherwise;

(c) discharge a seaman from an Indian ship and order the wages of any seaman so discharged or any part of those wages to be forfeited;

(d) decide any questions as to wages, fines or forfeitures arising between any of the parties to the proceedings;

(e) direct that any or all of the costs incurred by the master or owner of an Indian ship or on the maintenance of a seaman or apprentice while in prison outside India shall be paid out of, and deducted from, the wages of that seaman or apprentice, whether earned or subsequently earned;

(f) if it considers such a step expedient, order a survey to be made of any Indian ship which is the subject of investigation;

(g) order the costs of proceedings before it or any part of those costs, to be paid by any of the parties thereto, and may order any person making a frivolous or unjustified complaint to pay compensation for any loss or delay caused thereby; and any costs or compensation so ordered to be paid by any person shall be paid by that person accordingly and may be recovered in the same manner in which wages of seaman are recoverable or may be deducted from the wages due to that person.

(2) All orders made by a Marine Board shall, whenever practicable, be entered in the official log book of the ship which is the subject of investigation or on board which the casualty or occurrence or conduct investigated took place, and be signed by the presiding officer of the Board.

*Miscellaneous provisions relating to cancellation and suspension of certificates*

377. (1) Any certificate which has been granted by the Central Government under this Act to any master, mate or engineer, may be cancelled or suspended for any specified period, by the Central Government in the following cases, that is to say,—

Powers of  
Central Government to  
cancel, suspend, etc.,  
certificate  
of master,  
mate or  
engineer.

(a) if, on any investigation or inquiry made by any court, tribunal or other authority for the time being authorised by the legislative authority in any country outside India, the court, tribunal or other authority reports that the master, mate or engineer is incompetent or has been guilty of any gross act of misconduct, drunkenness or tyranny, or in a case of collision has failed to render assistance, or to give such information as is referred to in section 348, or that the loss, stranding or abandonment of, or damage to, any ship or loss of life has been caused by his wrongful act or default;

(b) if the master, mate or engineer is proved to have been convicted—

(i) of any offence under this Act or of any non-bailable offence committed under any other law for the time being in force in India; or

(ii) of an offence committed outside India which, if committed in India, would be a non-bailable offence;

(c) if (in the case of a master of an Indian ship) he has been superseded by the order of any court of competent jurisdiction in India or outside India.

(2) The Central Government may at any time, if it thinks the justice of the case so requires,—

(a) revoke any order of cancellation or suspension made by it under sub-section (1) or set aside any order of cancellation or suspension made by a court under section 370 or any order of suspension made by a Marine Board under clause (b) of sub-section (1) of section 376 or any order of censure made by a court under section 371; or

(b) shorten or lengthen the period of suspension ordered by it under sub-section (1) or by a court under section 370 or by a Marine Board under clause (b) of sub-section (1) of section 376 or cancel a certificate suspended by a Marine Board under that clause; or

(c) grant without examination a new certificate of the same or any lower grade in the case of any certificate cancelled or suspended by it under sub-section (1) or by a court under section 370 or any certificate suspended by a Marine Board under clause (b) of sub-section (1) of section 276:

Provided that no order under clause (b) either lengthening the period of suspension of or cancelling a certificate shall be passed by the Central Government unless the person concerned has been given an opportunity of making a representation against the order proposed.

(3) A certificate granted under clause (c) of sub-section (2) shall have the same effect as if it had been granted after examination.

Delivery of  
Indian certi-  
ficate can-  
celled or  
suspended.

**378.** A master or ship's officer who is the holder of a certificate issued under this Act shall, if such certificate has been cancelled or suspended by the Central Government or by a court or suspended by a Marine Board, deliver his certificate to the Central

Government, court or Marine Board on demand or if it is not so demanded by the Central Government or court or Board, to the Director-General.

**379.** The cancellation or suspension of a certificate by the Central Government or by a court or the suspension of a certificate by a Marine Board, shall—

Effect of cancellation or suspension of certificate.

(a) if the certificate was issued under this Act, be effective everywhere and in respect of all ships; and

(b) if the certificate was issued outside India, be effective—

(i) within India and the territorial waters of India, in respect of all ships; and

(ii) outside India, in respect of Indian ships only.

**380.** If the certificate of a master or ship's officer is suspended under this Part by the Central Government or by a court or a Marine Board, no endorsement shall be made to that effect on the said certificate.

Suspended certificate not to be endorsed.

**381.** Notwithstanding anything contained in this Act, the Central Government may, at any time, without any formal investigation or inquiry, cancel or suspend any certificate granted by it under this Act, other than a certificate granted to a master, mate or engineer, if, in its opinion, the holder is, or has become, unfit to act in the grade for which the certificate was granted to him:

Power of Central Government to cancel or suspend other certificates.

Provided that no order under this section shall be passed by the Central Government unless the person concerned has been given an opportunity of making a representation against the order proposed.

*Re-hearing of cases*

**382.** (1) Whenever an investigation or inquiry has been held by a court or by a Marine Board under this Part, the Central Government may order the case to be re-heard either generally or as to any part thereof, and shall so order—

Re-hearing.

(a) if new and important evidence which could not be produced at the investigation has been discovered, or

(b) if for any other reason there has, in its opinion, been a miscarriage of justice.

(2) The Central Government may order the case to be re-heard by the court or Marine Board, as the case may be, consisting of the same members or other members as the Central Government may deem fit.

*Courts of survey*

Constitution  
of court of  
survey.

383. (1) A court of survey for a port shall consist of a judge sitting with two assessors.

(2) The judge shall be a district judge, judge of a court of small causes, presidency magistrate, magistrate of the first class or other fit person appointed in this behalf by the Central Government either generally or for any specified case.

(3) The assessors shall be persons of nautical, engineering or other special skill or experience.

(4) Subject to the provisions of Part IX as regards ships other than Indian ships, one of the assessors shall be appointed by the Central Government either generally or in each case and the other shall be summoned by the judge in the manner prescribed out of a list of persons from time to time prepared for the purpose by the Central Government or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the judge.

384. (1) If a surveyor authorised to inspect a ship—

Appeal from  
surveyor to  
court of  
survey.

(a) makes a statement in his report of inspection with which the owner or his agent or the master of the ship is dissatisfied, or

(b) gives notice under this Act of any defect in any ship, or

(c) declines to give any certificate under this Act,

the owner, master or agent, as the case may be, may, subject to the provisions of sub-section (2) and of section 387, appeal to a court of survey.

(2) Whenever a surveyor inspects any ship, he shall, if the owner, master or agent of the ship so requires, be accompanied on the inspection by some person nominated by the owner, master or agent, as the case may be, and if the person so nominated agrees with the surveyor as to the statement made or the notice given by the surveyor or the refusal by the surveyor to give a certificate, there shall be no appeal to a court of survey from that statement, notice or refusal.

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385. (1) The judge shall on receiving notice of appeal or a reference from the Central Government immediately summon the assessors to meet forthwith in the prescribed manner.

Powers and procedure of court of survey.

(2) The court of survey shall hear every case in open court.

(3) The judge may appoint any competent person to survey the ship and report thereon to the court.

(4) The judge shall have the same powers as the Central Government has to order the ship to be released or finally detained; but unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(5) The owner and master of the ship and any person appointed by the owner or master and also any person appointed by the Central Government may attend any inspection or survey made in pursuance of this section.

(6) The judge shall report the proceedings of the court in each case to the Central Government in the manner prescribed and each assessor shall either sign such report or report to the Central Government the reasons for his dissent.

386. The Central Government may make rules for carrying out the purposes of this Part with respect to a court of survey and in particular, and without prejudice to the generality of the foregoing power, with respect to—

Power to make rules.

(a) the procedure of the court;

(b) the requiring, on an appeal, of security for costs and damages;

(c) the amount and application of fees; and

(d) the ascertainment, in case of dispute, of the proper amount of costs.

#### *Scientific referees*

387. (1) If the Central Government is of opinion that an appeal to a court of survey involves a question of construction or design or a scientific difficulty or important principle, it may refer the matter to such one or more out of a list of scientific referees to be from time to time prepared by the Central Government as may appear to possess the special qualifications necessary for the particular case and may be selected by agreement between a person duly appointed by the Central Government in this behalf and the appellant, or in default of any such agreement, by the Central Government; and thereupon the appeal shall be determined by the referee or referees instead of by the court of survey.

Reference in difficult cases to scientific persons.

(2) The Central Government, if the appellant in any such appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

(3) The referee or referees shall have the same powers as a judge of the court of survey.

*Investigations into explosions or fires on board ships*

Power to investigate causes of explosion or fire on board ship.

388. Whenever any explosion or fire occurs on board any ship on or near the coasts of India, the Central Government may direct that an investigation into the causes of explosion or fire be made by such person or persons as it thinks fit.

Report to be made regarding cause of explosion or fire.

389. The person or persons referred to in section 388 may go on board the ship on which the explosion or fire has occurred with all necessary workmen and labourers, and remove any portion of the ship, or of the machinery thereof, for the purpose of the investigation, and shall report to the Central Government or the person duly appointed by it, as the case may be, what in his or their opinion was the cause of the explosion or fire.

PART XIII

WRECK AND SALVAGE

*Wreck*

Definition of coasts.

390. In this Part, the word "coasts" includes the coasts of creeks and tidal rivers.

Receivers of wreck.

391. (1) The Central Government may, by notification in the Official Gazette, appoint any person to be a receiver of wreck (in this Part referred to as receiver of wreck) to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as may be specified in the notification.

(2) A receiver of wreck may, by order in writing, direct that all or any of his functions under this Part shall, in such circumstances and subject to such conditions, if any, as may be specified in the order, be discharged by such person as may be specified therein and any person while discharging any such functions shall be deemed to be a receiver of wreck for the purposes of this Act.

Duty of receiver where vessel is in distress.

392. Where any vessel is wrecked, stranded or in distress at any place on or near the coasts of India, the receiver of wreck, within the limits of whose jurisdiction the place is situate shall upon being made acquainted with the circumstance, forthwith proceed



there, and upon his arrival shall take command of all persons present and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel and of its cargo and equipment:

Provided that the receiver shall not interfere between the master and the crew of the vessel in reference to the management thereof unless he is requested to do so by the master.

393. (1) Whenever a vessel is wrecked, stranded or in distress as aforesaid, all persons may, for the purpose of rendering assistance to the vessel or of saving the lives of the shipwrecked persons, or of saving the cargo or equipment of the vessel, unless there is some public road equally convenient, pass and repass, either with or without vehicles or animals, over any adjoining lands without being subject to interruption by the owner or occupier, so that they do as little damage as possible and may also on the like condition, deposit on these lands any cargo or other article recovered from the ship.

Power to pass over adjoining lands.

(2) Any damage sustained by an owner or occupier in consequence of the exercise of the rights given by this section, shall be a charge on the vessel, cargo or articles in respect of or by which the damage is occasioned and the amount payable in respect of the damage shall, in case of dispute, be determined by a magistrate on application made to him in this behalf.

394. Whenever a vessel is wrecked, stranded or in distress as aforesaid, and any person plunders, creates disorder or obstructs the preservation of the vessel or of the shipwrecked persons or the cargo or equipment of the vessel, the receiver of wreck may take such steps and use such force as he may consider necessary for the suppression of any such plundering, disorder or obstruction, and may for that purpose command any person to assist him.

Power of receiver of wreck to suppress, plunder and disorder by force.

395. Any person finding and taking possession of any wreck within any local limits for which there is a receiver of wreck, or bringing within such limits any wreck which has been found and taken possession of elsewhere, shall, as soon as practicable—

Procedure to be observed by persons finding wreck.

(a) if he be the owner thereof, give the receiver of wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished;

(b) if he be not the owner of such wreck, deliver the same to the receiver of wreck.

Investigation of certain matters in respect of vessels wrecked, etc.

396. Whenever any vessel is wrecked, stranded or in distress as aforesaid, the receiver of wreck within the local limits of whose jurisdiction the vessel is wrecked, stranded or in distress may conduct an investigation into all or any of the following matters, that is to say,—

- (a) the name and description of the vessel;
- (b) the names of the master and of the owners;
- (c) the names of the owners of the cargo;
- (d) the ports from and to which the vessel was bound;
- (e) the occasion of the wrecking, stranding, or distress of the vessel;
- (f) the services rendered; and
- (g) such other matters or circumstances relating to the vessel, the cargo or the equipment, as the receiver thinks necessary.

Notice to be given by receiver.

397. The receiver of wreck shall as soon as may be after taking possession of any wreck, publish a notification in such manner and at such place as the Central Government may, by general or special order, direct, containing a description of the wreck and the time at which and the place where it was found.

Immediate sale of wreck by receiver in certain cases.

398. A receiver of wreck may at any time sell any wreck in his custody if, in his opinion,—

- (a) it is under the value of five hundred rupees; or
- (b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept; or
- (c) it is not of sufficient value for warehousing;

and the proceeds of the sale shall, after defraying the expenses thereof, be held by the receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

Claims of owners to wreck.

399. (1) The owner of any wreck in the possession of the receiver upon establishing his claim to the same to the satisfaction of the receiver within one year from the time at which the wreck came into the possession of the receiver shall, upon paying the salvage and other charges, be entitled to have the wreck or the proceeds thereof delivered to him.

(2) Where any articles belonging to or forming part of a vessel other than an Indian vessel which has been wrecked or belonging to and forming part of the cargo of such vessel, are found on or near

the coasts of India or are brought into any port in India, the consular officer of the country in which the vessel is registered or, in the case of cargo, the country to which the owners of the cargo may have belonged shall, in the absence of the owner and of the master or other agent of the owner, be deemed to be the agent of the owner, with respect to the custody and disposal of the articles.

(3) Where the owner of the wreck does not appear and claim the balance of the proceeds of sale within one year from the date of sale, the said balance shall become the property of the Central Government.

400. No person shall—

(a) without the leave of the master board or attempt to board any vessel which is wrecked, stranded or in distress as aforesaid, unless the person is, or acts by command of, the receiver of wreck; or

(b) impede or hinder or attempt in any way to impede or hinder the saving of any vessel stranded or in danger of being stranded or otherwise in distress on or near the coasts of India or of any part of the cargo or equipment of the vessel, or of any wreck; or

(c) secrete any wreck or deface or obliterate any marks thereon; or

(d) wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded or otherwise in distress, on or near the coasts of India, or any part of the cargo or equipment of the vessel or any wreck.

Prohibition  
of certain  
acts in respect  
of wreck.

401. Where a receiver of wreck suspects or receives information that any wreck is secreted or is in the possession of some person who is not the owner thereof or that any wreck is otherwise improperly dealt with, he may apply to the nearest magistrate for a search warrant, and that magistrate shall have power to grant such warrant and the receiver of wreck by virtue thereof may enter any house or other place wherever situate and also any vessel and search for, seize and detain any such wreck there found.

Search  
warrants  
where wreck  
is concealed.

### Salvage

402. (1) Where services are rendered—

(a) wholly or in part within the territorial waters of India in saving life from any vessel, or elsewhere in saving life from a vessel registered in India; or

Salvage  
payable for  
saving life,  
cargo of or  
wreck.

(b) in assisting a vessel or saving the cargo or equipment of a vessel which is wrecked, stranded or in distress at any place on or near the coasts of India; or

(c) by any person other than the receiver of wreck in saving any wreck;

there shall be payable to the salvor by the owner of the vessel, cargo, equipment or wreck, a reasonable sum for salvage having regard to all the circumstances of the case.

(2) Salvage in respect of the preservation of life when payable by the owner of the vessel shall be payable in priority to all other claims for salvage.

(3) Where salvage services are rendered by or on behalf of the Government or by a vessel of the Indian Navy or the commander or crew of any such vessel, the Government, the commander or the crew, as the case may be, shall be entitled to salvage and shall have the same rights and remedies in respect of those services as any other salvor.

(4) Any dispute arising concerning the amount due under this section shall be determined upon application made by either of the disputing parties—

(a) to a magistrate, where the amount claimed does not exceed ten thousand rupees; or

(b) to the High Court, where the amount claimed exceeds ten thousand rupees.

(5) Where there is any dispute as to the persons who are entitled to the salvage amount under this section, the magistrate or the High Court, as the case may be, shall decide the dispute and if there are more persons than one entitled to such amount, the magistrate or the High Court shall apportion the amount thereof among such persons.

(6) The costs of and incidental to all proceedings before a magistrate or the High Court under this section shall be in the discretion of the magistrate or the High Court, and the magistrate or the High Court shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose aforesaid.

Savings.

403. Nothing in this Part shall—

(a) affect any treaty or arrangement with any foreign country to which India is a party with reference to the disposal of the proceeds of wrecks on their respective coasts; or

15 of 1908.

(b) affect the provisions of section 29 of the Indian Ports Act, 1908, or entitle any person, to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

404. (1) The Central Government may, make rules to carry out the purposes of this Part.

Power to make rules respecting wreck and salvage.

(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 procedure to be followed by a receiver of wreck in respect of the taking possession of wrecks and their disposal;

(b) the fees payable to receivers in respect of the work done by them;

(c) the procedure to be followed for dealing with claims relating to ownership of wrecks;

(d) the appointment of valuers in salvage cases;

(e) the principles to be followed in awarding salvage and the apportioning of salvage;

(f) the procedure to be followed for dealing with claims for salvage;

(g) the detention of property in the custody of a receiver of wreck for the purpose of enforcing payment of salvage.

#### PART XIV

##### CONTROL OF INDIAN SHIPS AND SHIPS ENGAGED IN COASTING TRADE

405. This Part applies only to sea-going ships fitted with mechanical means of propulsion of not less than one hundred and fifty tons gross; but the Central Government may, by notification in the Official Gazette, fix any lower tonnage for the purposes of this Part.

Application of Part.

406. (1) No Indian ship and no other ship chartered by a citizen of India or a company shall be taken to sea from a port or place within or outside India except under a licence granted by the Director-General under this section:

Indian ships and chartered ships to be licensed.

Provided that the Central Government, if it is of opinion that it is necessary or expedient in the public interest so to do, may, by notification in the Official Gazette, exempt any class of ships chartered by a citizen of India or a company from the provisions of this sub-section.

(2) A licence granted under this section may be—

- (a) a general licence;
- (b) a licence for the whole or any part of the coasting trade of India; or
- (c) a licence for a specified period or voyage.

(3) A licence granted under this section shall be in such form and shall be valid for such period as may be prescribed, and shall be subject to such conditions as may be specified by the Director-General.

Licensing of ships for coasting trade.

407. (1) No ship other than an Indian ship or a ship chartered by a citizen of India or a company which satisfies the requirements specified in clause (b) of section 21, shall engage in the coasting trade of India except under a licence granted by the Director-General under this section.

(2) A licence granted under this section may be for a specified period or voyage and shall be subject to such conditions as may be specified by the Director-General.

(3) The Central Government may, by general or special order, direct that the provisions of sub-section (1) shall not apply in respect of any part of the coasting trade of India or shall apply subject to such conditions and restrictions as may be specified in the order.

Revocation or modification of licence.

408. (1) The Director-General may, at any time if the circumstances of the case so require, revoke or modify a licence granted under section 406 or section 407.

(2) No licence shall be revoked or modified under this section unless the person concerned has been given a reasonable opportunity of making a representation against such revocation or modification, as the case may be.

Licences to be surrendered when they cease to be valid.

409. When a licence under section 406 or section 407 ceases to be valid, the person to whom it was granted shall, without unreasonable delay, return it or cause it to be returned to the Director-General.

No port clearance until licence is produced.

410. No customs collector shall grant a port clearance to a ship in respect of which a licence is required under this Part until after production by the owner, master or agent of such a licence.

Power to give directions.

411. The Director-General may, if he is satisfied that in the public interest or in the interests of Indian shipping it is necessary

so to do, give, by order in writing, such directions as he thinks fit—

(a) in the case of a ship which has been granted a licence under section 406, with respect to all or any of the following matters:—

(i) the ports or places, whether in or outside India, to which, and the routes by which, the ship shall proceed for any particular purpose;

(ii) the diversion of any ship from one route to another for any particular purpose;

(iii) the classes of passengers or cargo which may be carried in the ship;

(iv) the order of priority in which passengers or cargo may be taken on or put off the ship at any port or place, whether in or outside India;

(b) in the case of a ship which has been granted a licence under section 407 with respect to the order of priority in which passengers or cargo may be taken on the ship at any port or place in India from which she is about to proceed for any port or place on the continent of India at which she is to call in the course of her voyage.

412. (1) The Central Government may, by order published in the Official Gazette, fix in the prescribed manner the rates at which any Indian ship may be hired and the rates which may be charged for the carriage of passengers or cargo by any ship engaged in the coasting trade of India. Power to fix shipping rates.

(2) If the Central Government considers that with a view to enabling it to fix the rates under sub-section (1) it is necessary or expedient so to do, it may constitute a Board in the prescribed manner for the purpose of advising it; and such Board may be constituted either generally or for a particular case or route or in respect of rates for the carriage of passengers or cargo or both.

(3) Where an order fixing the rates to be charged for hire or for the carriage of passengers or cargo has been published under sub-section (1), no owner, master or agent of a ship shall charge rates exceeding the rates so fixed.

413. The Director-General may, by notice, require—

(a) the owner, master or agent of any ship in respect of which a licence granted by the Director-General under this Act is in force; or Power of Director-General to call for information.

(b) the owner, master or agent of any ship in respect of which any directions have been or may be given under clause (b) of section 411;

to furnish within the period specified in the notice information as to—

- (i) the classes of passengers and cargo which the ship is about to carry or is capable of carrying or has carried during any specified period;
- (ii) the rates of passenger fares and freight charges applicable to the ship;
- (iii) any other matter which may be prescribed.

Power to  
make rules.

414. (1) The Central Government may make rules for carrying out the purposes of this Part.

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

- (a) the form in which, the period or voyage for which, and the conditions subject to which licences under this Part may be granted, the particulars to be included therein and the fees payable therefor;
- (b) the manner in which rates shall be fixed under section 412;
- (c) the constitution and functions of a Board constituted under section 412 and the procedure to be followed by it in the discharge of its functions;
- (d) the matters regarding which information may be required to be furnished under section 413.

## PART XV

### SAILING VESSELS

Application  
of Part.

415. Save as otherwise provided, this Part applies to every sea-going sailing vessel owned by a citizen of India or a company which satisfies the requirements specified in clause (b) of section 21.

Decision of  
question  
whether a  
vessel is a  
sailing vessel.

416. If any question arises whether a vessel is a sailing vessel or not for the purposes of this Part, it shall be decided by the Director-General and his decision thereon shall be final.

Certificate of  
registry.

417. (1) Every sailing vessel shall be registered in accordance with the provisions of this section.

(2) The owner of every sailing vessel shall make an application in the prescribed form to a registrar for the grant to him of a certificate of registry in respect of the vessel.



(3) The owner of every sailing vessel in respect of which an application under sub-section (2) is made, shall cause the tonnage of the vessel to be ascertained in the prescribed manner.

(4) The registrar may make such inquiry as he thinks fit with respect to the particulars contained in such application and shall enter in a register to be kept for the purpose (hereinafter referred to as sailing vessels register) the following particulars in respect of the vessel; namely:—

(a) the name of the sailing vessel, the place where she was built, and the port to which she belongs;

(b) the rig, type and tonnage of the vessel;

(c) the name, occupation and residence of the owner of the vessel;

(d) the number assigned to the vessel;

(e) the mortgages, if any, effected by the owner in respect of the vessel;

(f) such other particulars as may be prescribed.

(5) After the particulars in respect of the vessel have been entered in the sailing vessels register under sub-section (4), the registrar shall grant to the applicant a certificate of registry in the prescribed form.

(6) The owner of every sailing vessel shall pay for each certificate of registry a fee according to such scale as may be prescribed by the Central Government, having regard to the tonnage of the vessel, but in no case exceeding one rupee per ton of its gross tonnage.

(7) A sailing vessel requiring to be registered under this Part but not so registered may be detained by a proper officer until the owner or tinal produces a certificate of registry in respect of the vessel.

418. The owner of every sailing vessel so registered shall, before the vessel begins to take any cargo or passengers, paint or cause to be painted permanently in the prescribed manner on some conspicuous part of the sailing vessel, the name by which the vessel has been registered, the number assigned to the vessel by the registrar and the port to which she belongs, and shall take all steps to ensure that the vessel remains painted as required by this section.

Particulars relating to sailing vessel to be painted.

419. A change shall not be made in the name of a sailing vessel registered under this Part except in accordance with the rules made in this behalf.

Change of name of sailing vessel.

Prevention  
of overload-  
ing or over-  
crowding.

420. (1) The Central Government may make rules regulating the carriage of cargo or passengers in sailing vessels and the protection of life and property on board such vessels.

(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 assignment of free board to sailing vessels;

(b) the marking of such free board on such vessels and the maintenance of such markings;

(c) the survey of the space allotted to passengers on board such vessels;

(d) the scale and type of accommodation to be provided for each passenger.

(3) Any sailing vessel attempting to ply or proceed to sea without free board markings or any sailing vessel which has been so loaded as to submerge such markings may be detained by a proper officer until free board markings are made in accordance with the rules made in this behalf or the vessel is so loaded that such markings are not submerged.

(4) Nothing in this section relating to free board, shall apply to any sailing vessel in respect of which a load line has been assigned under Part IX.

Certificate of  
inspection.

421. (1) No sailing vessel shall ply or proceed to sea unless there is in force in respect of that vessel a certificate of inspection granted under this Part, the same being applicable to the voyage on which she is about to ply or proceed.

(2) A certificate of inspection in respect of a sailing vessel shall specify—

(a) the name and tonnage of the vessel;

(b) the names of the owner and tinal of the vessel;

(c) the maximum number of the crew and the maximum number of passengers which the vessel is fit to carry;

(d) the limits within which the vessel may be used for the purpose of trading and the terms and conditions subject to which she may be used for such trading;

(e) the particulars of the free board assigned to the vessel; and shall contain a statement to the effect that her hull, rigging and equipment (including auxiliary machinery, if any) are in good condition.

(3) Every certificate of inspection shall be in force from the date of issue for a period of one year or for such shorter period as may be specified therein:

Provided that where a sailing vessel is on a voyage outside India at the time of expiry of the certificate, the certificate shall continue to be valid until her first arrival at a port in India after the expiry of such period.

(4) No customs collector shall grant a port clearance to a sailing vessel registered under this Part until after the production by the owner or tindal thereof of a certificate of inspection granted under this Part in respect of the vessel.

422. (1) Where at any time subsequent to the issue of a certificate of inspection in respect of a sailing vessel, the Director-General has reason to believe that the vessel is not fit to ply or proceed to sea, he may, after giving the owner an opportunity of making a representation, cancel such certificate. Cancellation, re-issue, etc., of certificate of inspection.

(2) Where at any time subsequent to the issue of a certificate of inspection a sailing vessel has undergone material alteration or has met with accident or, where the certificate of inspection of a sailing vessel has been cancelled under sub-section (1) and an application is made for the re-issue of such certificate or for the grant of a fresh certificate, the registrar may, before re-issuing the certificate or issuing a fresh certificate, as the case may be, cause such vessel to be inspected; and if the authority inspecting the vessel reports that she is not fit to ply or proceed to sea or that her hull, rigging and equipment (including auxiliary machinery, if any) are defective, such certificate shall not be re-issued or issued until the vessel is, in the opinion of such authority, fit to ply or proceed to sea or the defect is rectified to the satisfaction of such authority.

423. When a sailing vessel is so altered as not to correspond with the particulars relating to her entered in the certificate of registry, the owner of such vessel shall make a report of such alteration to the registrar of the port where the vessel is registered, and the registrar shall either cause the alteration to be registered, or direct that the vessel be registered anew, in accordance with such rules as may be made in this behalf. Registry of alterations.

424. The registry of a sailing vessel may be transferred from one port to another in India on the application of the owner or tindal of the vessel in accordance with such rules as may be made in this behalf. Transfer of registry.

425. If a sailing vessel is lost, destroyed or rendered permanently unfit for service, the owner of such vessel shall with the least practicable delay report the fact to the registrar of the port where the vessel is registered and also forward to him along with the report, the certificate of registry in respect of the vessel; and thereupon the registrar shall have the registry of the vessel closed. Closure of registry.

Restrictions  
on transfer  
of sailing  
vessels.

426. No person shall transfer or acquire any sailing vessel registered under this Part or any interest therein without the previous approval of the Central Government; and any transaction effected in contravention of this section shall be void and unenforceable.

Mortgages of  
sailing  
vessels.

427. (1) Every mortgage of a sailing vessel or of any interest therein effected after the date on which this Part comes into force shall be registered with the registrar.

(2) Every mortgage of a sailing vessel or any interest therein effected before the date on which this Part comes into force shall, if subsisting on that date, be registered with the registrar within three months of that date.

(3) The registrar shall enter every such mortgage in the sailing vessels register in the order in which it is registered with him.

(4) If there are more mortgages than one recorded in respect of the same sailing vessel or interest therein, the mortgages shall, notwithstanding any express, implied or constructive notice, have priority according to the date on which each mortgage is registered with the registrar and not according to the date of each mortgage itself.

Provided that nothing contained in this sub-section shall affect the relative priorities as they existed immediately before the date on which this Part comes into force as between mortgages of the same vessel or interest therein effected before such date which are registered in accordance with the provisions of sub-section (2).

Fraudulent  
use of certificate  
of registry or  
certificate  
of inspection,  
etc., prohibited.

428. (1) No person shall use or attempt to use the certificate of registry or the certificate of inspection granted in respect of a sailing vessel for any purpose other than the lawful navigation of the vessel.

(2) No person shall use or attempt to use for the navigation of a sailing vessel a certificate of registry or a certificate of inspection not granted in respect of that vessel.

(3) No person who has in his possession or under his control the certificate of registry or the certificate of inspection of a sailing vessel shall refuse or omit without reasonable cause to deliver such certificate on demand to the owner of the vessel.

Statement re-  
lating to crew  
of sailing  
vessel to be  
maintained.

429. (1) Every owner or tindal of a sailing vessel shall maintain or cause to be maintained in the prescribed form a statement of the crew of the vessel containing with respect to each member thereof—

- (a) his name;
- (b) the wages payable to him;
- (c) the names and addresses of his next-of-kin;
- (d) the date of commencement of his employment; and
- (e) such other particulars as may be prescribed.

(2) Every change in the crew of the vessel shall be entered in the statement under sub-section (1);

(3) A copy of such statement and of every change entered therein shall be communicated as soon as possible to the registrar of the port of registry of the vessel concerned.

430. (1) If any owner or tindal of a sailing vessel in the course of her voyage, has jettisoned or claims to have jettisoned the whole or any part of the cargo of the vessel on account of abnormal weather conditions or for any other reason, he shall immediately after arrival of the vessel at any port in India give notice of such jettisoning to the proper officer at such port; and such notice shall contain full particulars of the cargo jettisoned and the circumstances under which such jettisoning took place.

Inquiry into jettisoning of cargo.

(2) When any such officer receives notice under sub-section (1) or has reason to believe that the cargo of any sailing vessel in his port has been jettisoned, he shall forthwith report in writing to the Central Government the information he has received and may proceed to make an inquiry into the matter.

431. (1) A sailing vessel not owned by a citizen of India or a company which satisfies the requirements specified in clause (b) of section 21, shall not engage in the coasting trade of India without the written permission of the Director-General.

Non-Indian sailing vessels not to engage in coasting trade without permission.

(2) The Director-General may, when granting such permission, impose such terms and conditions as he thinks fit and may require the owner or other person in charge of the vessel to deposit with him such amount as he thinks necessary for the due fulfilment of such terms and conditions.

(3) No customs collector shall grant a port clearance to a sailing vessel not registered under this Part which engages or attempts to engage in the coasting trade of India until after the production by the owner or person in charge thereof of the written permission of the Director-General.

432. (1) If any sailing vessel registered in any country outside India arrives in or proceeds from a port or place in India in an overloaded condition, the person in charge of the vessel shall be guilty of an offence under this section.

Detention of overloaded non-Indian sailing vessels.

(2) A sailing vessel shall be deemed to be in an overloaded condition for the purposes of this section—

(a) where the vessel is loaded beyond the limit specified in any certificate issued in the country in which she is registered; or

(b) in case no such certificate has been issued in respect of the vessel, where the actual free board of the vessel is less than the free board which would have been assigned to her had she been registered under this Part.

(3) Any sailing vessel which is in an overloaded condition and is about to proceed from a port or place in India may be detained until she ceases to be in an overloaded condition; but nothing herein contained shall affect the liability of the person in charge of the vessel in respect of such overloading under any other provision of this Act.

Power of courts to rescind contracts between owner and tinal.

433. Where a proceeding is instituted in any court in respect of any dispute between the owner of a sailing vessel and the tinal arising out of or incidental to their relation as such, or is instituted for the purpose of this section, the court, if having regard to all the circumstances of the case it thinks it just to do so, may rescind any contract between the owner and the tinal upon such terms as the court may think just and this power shall be in addition to any other jurisdiction which the court can exercise independently of this section.

Application to sailing vessels of other provisions relating to ships.

434. The Central Government may, by notification in the Official Gazette, direct that any provisions of this Act other than those contained in this Part which do not expressly apply to sailing vessels shall also apply to sailing vessels subject to such conditions, exceptions and modifications as may be specified in the notification.

Power to make rules relating sailing vessels.

435. (1) The Central Government may make rules to carry out the purposes of this Part.

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

(a) the form in which applications for certificates of registry shall be made and the particulars which such applications should contain;

(b) the manner in which the tonnage of sailing vessels shall be ascertained;

(c) the manner in which free board is to be assigned to sailing vessels and the free board markings are to be made;

(d) the form in which certificates of registry and certificates of inspection may be issued;

(e) the issue of duplicate copies of certificates of registry and certificates of inspection where the originals are destroyed, lost, mislaid, mutilated or defaced;

(f) the manner in which, and the time within which, applications for the registry of alterations in the certificates

of registry of sailing vessels shall be reported, the endorsement of the particulars of alteration on the certificates of registry, the grant of provisional certificates in cases where sailing vessels are directed to be registered anew, the period for which provisional certificates shall be valid and all other matters ancillary to the registry of alterations;

(g) the manner in which applications for the transfer of registry of sailing vessels from one port to another in India shall be made and the procedure to be followed by the registrar in connection with such transfer;

(h) the authorities by which sailing vessels are to be inspected and certificates of inspection are to be issued under this Part;

(i) the criteria by which sailing vessels may be classified for the purpose of determining the limits within which they may be used for purposes of trading;

(j) the fixing of the rates of freight which may be charged by sailing vessels for specified goods or for any class of goods in relation to the coasting trade of India;

(k) the equipment which sailing vessels or any class of sailing vessels should carry including equipment relating to life saving and fire appliances, lights, shapes and signals required by the collision regulations;

(l) the survey of space provided for passengers of sailing vessels and the scale and type of accommodation to be provided for such passengers;

(m) the authority to which information regarding certificates of registry, registry of alterations and issue of fresh certificates of registry under this Part is to be sent by registrars;

(n) the qualifications to be possessed by tindals and other members of the crew of sailing vessels, the issue of permits to tindals and of identity cards to other members of the crew, the conditions for the issue of such permits and identity cards and the cancellation or suspension thereof;

(o) the fees which may be levied for the issue or re-issue of certificates of registry or certificates of inspection and for all other purposes of this Part;

(p) the form in which a contract for chartering a sailing vessel shall be executed;

(q) the form in which a contract for the carriage of goods by sailing vessels shall be executed;

(r) the reservation, in the public interest or in the interest of sailing vessels, of specified commodities for transport by sail-

ing vessels either generally or in specified sectors of the coasting trade or between specified ports and the conditions subject to which such reservation may be made;

(s) any other matter which has to be or may be prescribed.

### PART XVI

#### PENALTIES AND PROCEDURE

##### Penalties

Penalties.

436. (1) Any person who contravenes any provision of this Act or fails to comply with any provision thereof which it was his duty to comply with, shall be guilty of an offence; and if in respect of any such offence no penalty is specially provided in sub-section (2), he shall be punishable with fine which may extend to two hundred rupees.

(2) The offences mentioned in the second column of the following table shall be punishable to the extent mentioned in the fourth column of the same with reference to such offences respectively.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
1	If the owner or master of an Indian ship fails to comply with or contravenes sub-section (2) of section 28.	28(2)	Fine which may extend to one thousand rupees.
2	If a person wilfully makes a false statement in the builder's certificate referred to in section 30.	30	Fine which may extend to one thousand rupees.
3	If a person contravenes sub-section (2) of section 35.	35(2)	Fine which may extend to one thousand rupees.
4	If the owner or master of an Indian ship commits an offence under sub-section (4) of section 35.	35(4)	Fine which may extend to one thousand rupees.
5	If a master, without reasonable cause, fails to comply with sub-section (4) of section 36.	36(4)	Fine which may extend to five hundred rupees.
6	If a person makes illegal use of a certificate of registry stated to have been mislaid, lost or destroyed or if a person entitled to the certificate of registry obtains it at any time afterwards but fails to deliver the said certificate to the registrar as required by sub-section (5) of section 36.	36(5)	Fine which may extend to one thousand rupees.
7	If a master fails to deliver to the registrar the certificate of registry as required by sub-section (2) or sub-section (3) of section 38.	38(2) 38(3)	Fine which may extend to one thousand rupees.
8	If an owner fails to comply with sub-section (1) of section 39 or if a master fails to comply with sub-section (2) of that section.	39(1) 39(2)	Fine which may extend to one thousand rupees.



Serial No.	Offences	Section of this Act to which offence has reference	Penalties
9	If any person contravenes sub-section (r) of section 42.	42(r)	Fine which may extend to one thousand rupees.
10	If any person acts or suffers any person under his control to act in contravention of section 55 or omits to do or suffers any person under his control to omit to do anything required under that section.	55	Fine which may extend to one thousand rupees; but nothing herein shall affect the power to detain the ship under sub-section (4) of that section.
11	If an owner fails to make an application for registering anew a ship or for registering an alteration of a ship under section 56.	56	Fine which may extend to one thousand rupees, and in addition, a fine which may extend to fifty rupees for every day during which the offence continues after conviction.
12	If any distinctive national colours except those declared under sub-section (r) of section 63 are hoisted on board any Indian ship.	63(r)	The master, owner and every other person hoisting the colours shall be liable to fine which may extend to five thousand rupees.
13	If a person contravenes section 64.	64	Imprisonment which may extend to two years, or fine which may extend to five thousand rupees, or both.
14	If an owner or master contravenes section 65.	65	Imprisonment which may extend to two years, or fine which may extend to five thousand rupees, or both.
15	If default is made in complying with section 66.	66	The master shall be liable to fine which may extend to one thousand rupees.
16	If any person in the case of any declaration made in the presence of or produced to a registrar under Part V or in any document or other evidence produced to such registrar—  (a) wilfully makes or assists in making or procures to be made, any false statement concerning the title to or ownership of or the interest existing in any ship or any share in a ship;  (b) utters, produces or makes use of any declaration or document containing any such false statement knowing the same to be false.	General	Imprisonment, which may extend to six months, or fine which may extend to one thousand rupees, or both.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
17	<p>If any person—</p> <p>(a) having been engaged as one of the officers referred to in section 76 goes to sea as such officer without being duly certificated; or</p> <p>(b) employs a person as an officer without ascertaining that the person is duly certificated.</p>	General	Fine which may extend to five hundred rupees.
18	If a master or owner fails to comply with any of the requirements of section 93.	93	Fine which may extend to two hundred rupees.
19	If a master fails without reasonable cause to comply with any of the requirements of section 94.	94	Fine which may extend to one hundred rupees.
20	If any person acts in contravention of sub-section (2) of section 95 or section 96 or section 97.	95(2), 96, 97.	Fine which may extend to one hundred rupees for every seaman in respect of whom the offence is committed.
21	If a person engages or carries any seaman to sea in contravention of sub-section (2) of section 98 or section 99.	98(2), 99.	Fine which may extend to one hundred rupees for every seaman in respect of whom the offence is committed.
22	If a master carries any seaman to sea without entering into an agreement with him in accordance with this Act.	100	Fine which may extend to one hundred rupees for every seaman in respect of whom the offence is committed.
23	If a master enters into an agreement with any seaman for a scale of provisions less than the scale fixed under clause (g) of sub-section (2) of section 101.	101(2)(g)	Fine which may extend to two hundred rupees.
24	If a master fails, without reasonable cause, to comply with any of the requirements of section 105, sub-section (4) of section 106 or section 107.	105, 106(4), 107	Fine which may extend to fifty rupees.
25	<p>If any person—</p> <p>(a) is carried to sea to work in contravention of section 109, section 110 or section 111; or</p> <p>(b) is engaged to work in any capacity in a ship in contravention of section 109, section 110 or section 111 on a false representation by his parent or</p>	109, 110, 111.	<p>The master shall be liable to a fine which may extend to fifty rupees;</p> <p>the parent or guardian shall be liable to a fine which may extend to fifty rupees.</p>

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
	guardian that the young person is of an age at which such engagement is not in contravention of those sections.		
26	If a master refuses or neglects to produce for inspection any certificate of physical fitness delivered to him under section 111 when required to do so by a shipping master.	General	Fine which may extend to fifty rupees.
27	If the master of a ship, where there is no agreement with the crew, fails to keep the register of young persons required to be kept under section 112 or refuses or neglects to produce such register for inspection when required so to do by a shipping master.	General	Fine which may extend to two hundred rupees.
28	If the master of a ship other than an Indian ship engages a seaman in India otherwise than in accordance with section 114.	114	Fine which may extend to one hundred rupees for every seaman so engaged.
29	If any owner, master or agent wilfully disobeys any order under section 115.	115	Imprisonment which may extend to three months, or fine which may extend to one thousand rupees, or both.
30	If a master fails to comply with section 116.	116	Fine which may extend to one hundred rupees.
31	If any person obstructs any officer referred to in section 117 in the exercise of his powers under that section.	General	Fine which may extend to one hundred rupees.
32	If a master or owner acts in contravention of sub-section (1) or sub-section (2) of section 118.	118(1), 118(2).	Fine which may extend to one hundred rupees.
33	If a master fails to comply with the provisions of sub-section (1) of section 119, or, without reasonable cause, fails to return the certificate of competency to the officer concerned as required by sub-section (2) of that section.	119(1), 119(2).	Fine which may extend to two hundred rupees.
34	If a master fails to comply with section 120.	120	Fine which may extend to one hundred rupees.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
35	<p>If any person—</p> <p>(a) forges or fraudulently alters any certificate of discharge or a certificate as to the work of a seaman or a continuous discharge certificate or a copy of any such certificate; or</p> <p>(b) fraudulently uses any certificate of discharge or a certificate as to the work of a seaman or a continuous discharge certificate or a copy of any such certificate which is forged or altered or does not belong to him.</p>	General	Imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or both.
36	If any person acts in contravention of sub-section (1) of section 121.	121(1)	Fine which may extend to one thousand rupees.
37	<p>If a master—</p> <p>(a) fails without reasonable cause to comply with sub-section (1) or sub-section (3) of section 122; or</p> <p>(b) delivers a false statement for the purpose of sub-section (2) of section 122.</p>	122(1), 122(3). 122(2)	Fine which may extend to two hundred rupees.
38	If a master fails, without reasonable cause, to comply with section 125.	125	Fine which may extend to fifty rupees.
39	If a master or owner pays the wages of a seaman in a manner contrary to sub-section (1) of section 128.	128(1)	Fine which may extend to one hundred rupees.
40	If a master fails to comply with section 131.	131	Fine which may extend to one hundred rupees.
41	If any person fails, without reasonable cause, to comply with any requisition under section 133.	133	Fine which may extend to fifty rupees.
42	If a seaman contravenes sub-section (3) of section 135.	135(3)	Imprisonment which may extend to one month, or fine which may extend to one hundred rupees, or both, but nothing herein shall take away or limit any other remedy which any person would otherwise have for breach of contract or refund of the money advanced or otherwise.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
43	If any person commits a breach of any term of any award which is binding on him under sub-section (5) of section 150.	General	Imprisonment which may extend to one month, or fine which may extend to one thousand rupees, or both.
44	If a seaman or an owner contravenes section 151.	151	Imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both.
45	If a master fails to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman or apprentice or to making in the official log book the proper entries relating thereto or to the payment or delivery of such property as required by sub-section (1) of section 154.	154(1)	Fine which may extend to three times the value of the property not accounted for or if such value is not ascertained, to five hundred rupees, but nothing herein shall affect his liability under sub-section (1) of section 154 to account for the property not accounted for.
46	If the master of an Indian ship falls or refuses without reasonable cause to receive on board his ship or to give a passage or subsistence to, or to provide for, any seaman contrary to sub-section (1) of section 163.	163(1)	Fine which may extend to one thousand rupees in respect of each such seaman.
47	(a) If a master fails to comply with, or contravenes any provision of, sub-section (3) of section 168;	168(3)	Fine which may extend to two hundred rupees, but nothing herein shall affect the power to detain the ship under sub-section (2) of section 168;
	(b) if a master or any other person having charge of any provisions or water on board a ship liable to inspection under section 168 refuses or fails to give the person making the inspection reasonable facility for the purpose.	168(6)	Fine which may extend to two hundred rupees.
48	If a master fails to furnish provisions to a seaman in accordance with the agreement entered into by him and the court considers the failure to be due to the neglect or default of the master, or if a master furnishes to a seaman provisions which are bad in quality or unfit for use.	General	Fine which may extend to five hundred rupees, but nothing herein shall affect the claim for compensation under sub-section (1) of section 169
49	If a master fails without reasonable cause to comply with section 171.	171	Fine which may extend to one hundred rupees.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
50	(a) If any requirement of section 172 is not complied with in the case of any ship; or  (b) If obstruction is caused to the port health officer in the discharge of his duty.	172	The owner shall be liable to fine which may extend to two hundred rupees unless he can prove that the non-compliance was not caused by his inattention, neglect or wilful default;  the owner or master shall be liable to fine which may extend to two hundred rupees unless he can prove that the obstruction was caused without his knowledge or connivance.
51	If any foreign-going ship referred to in sub-section (1) of section 173 does not carry on board a duly qualified medical officer.	173(1)	The owner shall be liable for each voyage of the ship made without having on board a duly qualified medical officer, a fine which may extend to two hundred rupees.
52	If a master fails, without reasonable cause, to comply with section 184.	184	Fine which may extend to one hundred rupees.
53	If any person fails to comply with sub-section (1) of section 187.	187(1)	Fine which may extend to one hundred rupees.
54	If any person contravenes section 188.	188	Fine which may extend to fifty rupees.
55	If any person goes on board a ship contrary to section 189.	189	Fine which may extend to two hundred rupees.
56	If a master, seaman or apprentice contravenes section 190.	190	Imprisonment which may extend to two years, or fine which may extend to one thousand rupees, or both.
57	If a seaman or apprentice—  (a) deserts his ship;	191(1)(a)	He shall be liable to forfeit all or any part of the property he leaves on board and of the wages he has then earned and also if the desertion takes place at any place not in India, to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
	(b) contravenes clause (b) of subsection (r) of section 191.	191(r)(b)	<p>substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him, and also to imprisonment which may extend to three months;</p> <p>he shall, if the contravention does not amount to desertion, be liable to forfeit out of his wages a sum not exceeding two days' pay and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay or any expenses properly incurred in hiring a substitute and also to imprisonment which may extend to two months.</p>
58,	If any person contravenes subsection (3) of section 193.	193(3)	Fine which may extend to two hundred rupees.
59	<p>If a seaman or apprentice is guilty of the offence specified in—</p> <p>(i) clause (a) of section 194;</p> <p>(ii) clause (b) of section 194;</p> <p>(iii) clause (c) of section 194;</p> <p>(iv) clauses (d) and (e) of section 194;</p> <p>(v) clause (f) of section 194.</p>	194	<p>Forfeiture out of his wages of a sum not exceeding one month's pay;</p> <p>forfeiture out of his wages of a sum not exceeding two days' pay;</p> <p>imprisonment which may extend to one month and also for every twenty-four hours of continuance of such disobedience or neglect, forfeiture out of his wages of a sum not exceeding six days' pay or any expenses which may have been properly incurred in hiring a substitute;</p> <p>imprisonment which may extend to three months, or fine which may extend to five hundred rupees, or both;</p> <p>forfeiture out of his wages of a sum equal to the loss sustained and also imprisonment which may extend to three months.</p>

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
60	If any master fails to comply with section 197.	197	Imprisonment which may extend to one month, or fine which may extend to one hundred rupees, or both.
61	If a seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or alleged last ship or wilfully and fraudulently makes a false statement of his own name.	General	Fine which may extend to fifty rupees.
62	If a master or owner neglects or refuses to pay over the fine under sub-section (1) of section 202.	202	Fine which may extend to six times the amount of the fine retained by him.
63	If any person contravenes section 203.	203	Fine which may extend to one hundred rupees.
64	If any person contravenes section 204.	204	Fine which may extend to one hundred rupees.
65	If any person goes to sea in a ship contrary to sub-section (1) of section 205.	205(1)	Imprisonment which may extend to one month, or fine which may extend to two hundred rupees, or both.
66	(a) If any person wilfully disobeys the prohibition contained in clause (a) of section 206 ; or	206(a)	Imprisonment which may extend to three months, or fine which may extend to one thousand rupees, or both.
66	(b) If any master or owner refuses or neglects to deposit any wages, money or other property or sum in the manner required by clause (b) of section 206.	206(b)	Fine which may extend to five hundred rupees.
67	If a master fails to deliver or transmit the documents referred to in sub-section (1) of section 208 or section 209 as provided therein.	208(1), 209.	Fine which may extend to five hundred rupees.
68	If a master contravenes sub-section (1) of section 210.	210(1)	Imprisonment which may extend to three months, or fine which may extend to one thousand rupees, or both.
69	If any person harbours or secretes any deserter knowing or having reason to believe that he has deserted.	General	Fine which may extend to two hundred rupees.
70	If a master fails to comply with sub-section (2) of section 214.	214(2)	Fine which may extend to one hundred rupees.



Not Corrected: See India Code

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Serial No.	Offences	Section of this Act to which offence has reference	Penalties
71	(a) If sub-section (1) of section 215 is not complied with ;	215(1)	The master shall be liable to fine which may extend to fifty rupees, if no other penalty is provided in this Act ;
	(b) if any person contravenes sub-section (2) of section 215.	215(2)	Fine which may extend to three hundred rupees.
72	If any person wilfully destroys or mutilates or renders illegible any entry in any official log book or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log book.	General	Imprisonment which may extend to one year.
73	If a master fails, without reasonable cause, to comply with section 216.	216	Fine which may extend to two hundred rupees.
74	If a master or owner fails, without reasonable cause, to comply with section 217.	217	Fine which may extend to one hundred rupees.
75	If an owner, agent or master without reasonable cause neglects to give the notice required by sub-section (1) of section 229.	229(1)	Fine which may extend to five hundred rupees.
76	If an owner or master, without reasonable cause, fails to deliver a certificate under section 230.	230	Fine which may extend to one hundred rupees.
77	If a certificate of survey is not affixed or kept affixed as required by section 231.	231	The owner or master shall be liable to fine which may extend to two hundred rupees.
78	If a ship carries or attempts to carry passengers in contravention of sub-section (1) of section 220 or has on board a number of passengers in contravention of sub-section (1) of section 232.	220(1), 232(1)	The owner, agent or master shall be liable to fine which may extend to one thousand rupees.
79	(a) If a person is guilty of any offence specified in sub-section (1) of section 233 ;	233(1)	The person concerned shall be liable to fine which may extend to fifty rupees; but this liability shall not prejudice the recovery of the fare, if any, payable by him ;
	(b) if a person contravenes sub-section (2) of section 233.	233(2)	Fine which may extend to three hundred rupees.
80	If an unberthed passenger or pilgrim ship departs or proceeds on a voyage from or discharges unberthed passengers or pilgrims at any port or place within India in contravention of sub-section (1) of section 237, or if a person is received as an unberthed passenger or pilgrim on board any such ship in contravention of sub-section (2) of that section.	237 (1), 237 (2).	The master, owner or agent shall be liable to fine which may extend to one-thousand rupees.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
81	If the master, owner or agent of an unberthed passenger or pilgrim ship fails to give the notice required by sub-section (1) of section 238.	238(1)	Fine which may extend to two hundred rupees.
82	If a person impedes or refuses to allow any entry or inspection authorised by section 239.	239	Fine which may extend to five hundred rupees.
83	If a master or owner fails to comply with section 246.	246	Fine which may extend to two hundred rupees.
84	If the master, owner or agent of an unberthed passenger or pilgrim ship, after having obtained any of the certificates mentioned in Part VIII, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her unberthed passengers or pilgrims or other matters to which the certificate relates.	General	Imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both.
85	If the master of an unberthed passenger or pilgrim ship or any contractor employed by him for the purpose contravenes section 247.	247	Fine which may extend to thirty rupees for every unberthed passenger or pilgrim, who has sustained detriment by the omission to supply the prescribed provisions.
86	If an unberthed passenger or pilgrim ship carries unberthed passengers or pilgrims in contravention of sub-section (1) of section 248.	248(1)	The master, owner or agent shall be liable to fine which may extend to two thousand rupees.
87	If a master, owner or agent contravenes section 249.	249	Fine which may extend to one thousand rupees.
88	If an owner, agent or master contravenes section 252.	252	Fine which may extend to one thousand rupees.
89	If the master, owner or agent fails to comply with sub-section (1) of section 255.	255(1)	Fine which may extend to two hundred rupees.
90	If medical officers or medical attendants are not carried on an unberthed passenger ship as required by sub-section (1) or sub-section (2) of section 259, as the case may be; or if the ship is not provided with a hospital, medical stores and equipment as required by sub-section (3) of that section.	259	The master, owner or agent shall be liable for each voyage made in contravention of section 259 to fine which may extend to five hundred rupees.
91	If an owner, agent or master contravenes section 260.	260	Fine which may extend to one thousand rupees.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
92	(a) If medical officers and attendants are not carried on a pilgrim ship in accordance with sub-section (1) of section 269; or	269 (1)	The master, owner or agent shall be liable for each voyage made in contravention of sub-section (1) of section 269 to fine which may extend to three hundred rupees;
	(b) if a medical officer or attendant on a pilgrim ship contravenes sub-section (3) of section 269.	269 (3)	fine which may extend to two hundred rupees.
93	If a master, owner or agent contravenes sub-section (4) of section 278.	278 (4)	Fine which may extend to two thousand rupees.
94	If section 291 is not complied with in the case of a ship.	291	The master or owner shall be liable to fine which may extend to one thousand rupees.
95	If section 292 is not complied with in the case of a ship.	292	The master or owner shall be liable to fine which may extend to two hundred rupees.
96	If any ship proceeds or attempts to proceed to sea in contravention of section 297.	297	The master or owner shall be liable to fine which may extend to two hundred rupees.
97	If any ship proceeds or attempts to proceed to sea without carrying on board the information required by sub-section (1) of section 298.	298 (1)	The master or owner shall be liable to fine which may extend to one thousand rupees.
98	If any ship proceeds or attempts to proceed to sea in contravention of section 307.	307	The master or owner shall be liable to fine which may extend to—  (a) in the case of a passenger ship, to one hundred rupees for every passenger carried on board the ship but without prejudice to any other remedy or penalty under this Act; and  (b) in the case of a ship other than a passenger ship, to one thousand rupees.
99	If any ship proceeds or attempts to proceed to sea in contravention of section 312.	312	The master or owner shall be liable to fine which may extend to one thousand rupees.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
100	If any ship is loaded in contravention of section 313.	313	<p>The master or owner shall be liable to fine which may extend to ten thousand rupees and to such additional fine not exceeding one thousand rupees for every inch or fraction of an inch by which the appropriate load lines on each side of the ship are submerged or would have been submerged if the ship had been in salt waters and had no list, as the court thinks fit to impose, having regard to the extent to which the earning capacity of the ship is or would have been increased by reason of the submersion :</p> <p>Provided that it shall be a good defence for the master or owner to prove that a contravention was due solely to deviation or delay caused solely by stress of weather or other circumstance which neither the master nor the owner nor the charterer, if any, could have prevented or forestalled.</p>
101	<p>(a) If the owner or master of an Indian ship contravenes sub-section (1) of section 314 ; or</p> <p>(b) if any person contravenes sub-section (2) of section 314.</p>	<p>314(1) } 314(2) }</p>	Fine which may extend to one thousand rupees.
102	If a master or owner fails to deliver the certificate as required under sub-section (5) of section 317.	317(5)	Fine which may extend to one hundred rupees.
103	If a master proceeds or attempts to proceed to sea in contravention of sub-section (1) of section 318.	318(1)	Fine which may extend to one thousand rupees.
104	<p>(a) If the owner of an Indian ship fails to comply with clause (a) of sub-section (1) of section 319, or</p> <p>(b) if a master fails to comply with clause (b) of sub-section (1), or clause (a) or clause (b) of sub-section (2) of section 319.</p>	<p>319(1)(a) } 319(1)(b), } 319(2) }</p>	Fine which may extend to two hundred rupees.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
105	If a master fails to comply with sub-section (1) of section 320.	320(1)	Fine which may extend to one hundred rupees.
106	(a) If a master, owner or agent is guilty of an offence under sub-section (1) of section 332; or (b) if the owner or master of a ship is guilty of an offence under sub-section (2) of section 332; or (c) if a master fails to deliver any notice required by sub-section (3) of section 332 or if in any such notice he makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular.	332(1) 332(2) 332(3)	Fine which may extend to three thousand rupees; fine which may extend to one thousand rupees.
107	If a ship is loaded in contravention of sub-section (7) of section 333.	333(7)	The master or owner shall be liable to fine which may extend to ten thousand rupees and to an additional fine not exceeding one thousand rupees for every inch or fraction of an inch by which the appropriate sub-division load line on each side was submerged or would have been submerged if the ship had no list, as the court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was, or would have been, increased by reason of the submersion.
108	If a person is guilty of an offence under sub-section (1) or if a master is guilty of an offence under sub-section (2) of section 334.	334(1) 334(2)	Imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both.
109	If a master or person in charge of a ship fails, without reasonable cause, to comply with section 348.	348	Imprisonment which may extend to three months or fine which may extend to three thousand rupees, or both.
110	If a master fails to comply with section 349.	349	Fine which may extend to two hundred rupees.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
111	If the owner or master fails, without reasonable cause, to comply with section 350.	350	Fine which may extend to five hundred rupees.
112	If the owner or agent fails, without reasonable cause, to comply with section 351.	351	Fine which may extend to five hundred rupees.
113	If any person contravenes section 353.	353	Fine which may extend to five hundred rupees.
114	If a master fails to comply with section 354.	354	Fine which may extend to five hundred rupees.
115	(a) If a master fails to comply with sub-section (1) or sub-section (2) of section 355; or	355(1), 355(2).	Imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both;
	(b) if a master fails to comply with sub-section (5) of section 355.	355(5)	Fine which may extend to one thousand rupees.
116	If any person bound to give notice under sub-section (2) of section 358 fails to give such notice.	358(2)	Fine which may extend to five hundred rupees and in default of payment, simple imprisonment which may extend to three months.
117	If a master or ship's officer fails to comply with section 378.	378	Fine which may extend to five hundred rupees.
118	If any person wilfully disobeys any direction of the receiver of wreck under section 392.	392	Fine which may extend to five hundred rupees.
119	If the owner or occupier of any land impedes or in any way hinders any person in the exercise of the rights given by section 393.	393	Fine which may extend to five hundred rupees.
120	(a) If any person omits to give notice of the finding of any wreck to the receiver of wreck as required by clause (a) of section 395; or	395(a)	Fine which may extend to one thousand rupees;
	(b) if any person omits to deliver any wreck as required by clause (b) of section 395.	395(b)	Fine which may extend to one thousand rupees and in addition forfeiture of all claims to salvage and payment to the owner of such wreck, if the same is claimed, or if the same is unclaimed, to the Government, a penalty, not exceeding twice the value of such wreck.
121	If any person contravenes any of the provisions of section 400.	400	Fine which may extend to five hundred rupees.

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
122	<p>(a) If a ship is taken to sea in contravention of sub-section (1) of section 406 or if a ship engages in the coasting trade in contravention of sub-section (1) of section 407; or</p> <p>(b) if, without reasonable excuse, any limitation or condition contained in a licence granted under section 406 or section 407 is contravened.</p>	<p>406(1), 407(1)</p> <p>406; 407.</p>	<p>The master or owner of the ship or in the case of a ship other than an Indian ship, the master, agent in India of the owner or the charterer of the ship in respect of which the contravention has taken place shall be liable to imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both.</p>
123	<p>If a person to whom a licence under section 406 or section 407 has been granted fails to comply with section 409.</p>	<p>409</p>	<p>Fine which may extend to one hundred rupees.</p>
124	<p>(a) If any directions given under section 411 are not complied with; or</p> <p>(b) if the provisions of sub-section (3) of section 412 are contravened.</p>	<p>411</p> <p>412(3)</p>	<p>The owner, master or agent shall be liable to imprisonment for a term which may extend to six months, or to fine which may extend to one thousand rupees, or both.</p>
125	<p>If the owner, master or agent on whom a notice has been served under section 413 fails to furnish the information required within the time specified or in furnishing the information makes any statement which he knows to be false on any material particular.</p>	<p>413</p>	<p>Imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or both.</p>
126	<p>If a sailing vessel required to be registered under section 417 is not registered in accordance with the provisions of that section.</p>	<p>417</p>	<p>The owner or tindal shall be liable to fine which may extend to five hundred rupees.</p>
127	<p>If the owner fails to comply with section 418.</p>	<p>418</p>	<p>Fine which may extend to two hundred rupees.</p>
128	<p>If the provisions of section 419 are contravened.</p>	<p>419</p>	<p>The owner or tindal shall be liable to fine which may extend to two hundred rupees.</p>
129	<p>If any sailing vessel attempts to Comply or proceed to sea without free board markings or is so loaded as to submerge such markings, or plies or proceeds to sea without a certificate of inspection as required by sub-section (1) of section 421, or if any of the terms and conditions specified in such certificate are contravened.</p>	<p>420(3), 421.</p>	<p>The owner or tindal shall be liable to imprisonment which may extend to six months, or to fine which may extend to five hundred rupees, or both.</p>

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
130	If the owner fails to comply with section 423.	423	Fine which may extend to two hundred rupees and in addition a fine which may extend to twenty rupees for every day during which the offence continues after conviction.
131	If the owner fails to comply with section 425.	425	Fine which may extend to two hundred rupees.
132	If any person contravenes section 426.	426	Fine which may extend to five hundred rupees.
133	If any person contravenes any of the provisions of section 428.	428	Imprisonment which may extend to three months, or fine which may extend to two hundred rupees, or both.
134	If the owner or tindal fails to comply with any of the provisions of section 429.	429	Fine which may extend to two hundred rupees.
135	If the owner or tindal fails to comply with sub-section (1) of section 430.	430(1)	Imprisonment which may extend to three months, or fine which may extend to two hundred rupees, or both.
136	(a) If a sailing vessel is engaged in the coasting trade in contravention of sub-section (1) of section 431; or	431(1)	The owner, tindal or agent shall be liable to imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or both.
	(b) if any of the terms and conditions imposed under sub-section (2) of section 431 are contravened.	431(2)	
137	If any person is guilty of an offence under sub-section (1) of section 432.	432(1)	Imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or both.
138	(a) If the master is guilty of an offence under sub-section (2) of section 444; or	444(2)	Fine which may extend to one thousand rupees.
	(b) if the owner, master or agent is guilty of an offence under sub-section (3) of section 444.	444(3)	
139	If any person exercises the profession of a ship surveyor in contravention of section 450.	450	Fine which may extend to one thousand rupees.
140	If any person does any act in contravention of sub-section (2) of section 454 in respect of which no other penalty is provided.	454(2)	Fine which may extend to two hundred rupees.
141	If any person is guilty of an offence under sub-section (2) of section 456.	456(2)	Fine which may extend to five hundred rupees.



Procedure

437. Any person committing any offence under this Act or any rule or regulation thereunder may be tried for the offence in any place in which he may be found or which the Central Government may, by notification in the Official Gazette, direct in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

Place of trial

438. The penalties to which masters and owners of unberthed passenger and pilgrim ships are made liable by section 436 shall be enforced only on information laid at the instance of the certifying officer, or, at any port or place where there is no such officer at the instance of such other officer as the Central Government may specify in this behalf.

Cognizance of offences.

439. No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act or any rule or regulation thereunder.

Jurisdiction of Magistrates.

5 of 1898.

440. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a presidency magistrate or a magistrate of the first class to pass any sentence authorised by or under this Act on any person convicted of an offence under this Act or any rule or regulation thereunder.

Special provision regarding punishment.

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

Offences by companies.

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

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

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

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

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

Depositions to be received in evidence when witness cannot be produced.

442. (1) Whenever, in the course of any legal proceeding under this Act instituted at any place in India before any court or magistrate or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter, and the defendant or the person accused (as the case may be), after being allowed a reasonable opportunity for so doing, does not produce the witness before the court, magistrate or person so authorised, any deposition previously made by the witness in relation to the same subject-matter before any court, justice or magistrate in any other place in India or, if elsewhere, before a Marine Board or before any Indian consular officer, shall be admissible in evidence—

(a) if the deposition is authenticated by the signature of the presiding officer of the court or of the justice, magistrate or Marine Board or consular officer, before whom it is made;

(b) if the defendant or the person accused had an opportunity by himself or his agent of cross-examining the witness;

(c) if the proceeding is criminal, on proof that the deposition was made in the presence of the person accused.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed such deposition; and a certificate by such person that the defendant or person accused had an opportunity of cross-examining the witness, and that the deposition, if made in a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

Power to detain foreign ship that has occasioned damage.

443. (1) Whenever any damage has in any part of the world been caused to property belonging to the Government or to any citizen of India or a company by a ship other than an Indian ship and at any time thereafter that ship is found within Indian jurisdiction, the High Court may, upon the application of any person who alleges that the damage was caused by the misconduct or want of skill of the master or any member of the crew of the ship, issue an order directed to any proper officer or other officer named in the order requiring him to detain the ship until such time as the owner, master or consignee thereof has satisfied any claim in respect of the damage or has given security to the satisfaction of the High Court to pay all

costs and damages that may be awarded in any legal proceedings that may be instituted in respect of the damage, and any officer to whom the order is directed shall detain the ship accordingly.

(2) Whenever it appears that before an application can be made under this section, the ship in respect of which the application is to be made will have departed from India or the territorial waters of India, any proper officer may detain the ship for such time as to allow the application to be made and the result thereof to be communicated to the officer detaining the ship, and that officer shall not be liable for any costs or damages in respect of the detention unless the same is proved to have been made without reasonable grounds.

(3) In any legal proceedings in relation to any such damage aforesaid, the person giving security shall be made a defendant and shall for the purpose of such proceeding be deemed to be the owner of the ship that has occasioned the damage.

444. (1) Where under this Act a ship is authorised or ordered to be detained, any commissioned officer of the Indian Navy or any port officer, pilot, harbour master, conservator of port or customs collector may detain the ship. Power to enforce detention of ship.

(2) If any ship after detention, or after service on the master of any notice of, or order for, such detention proceeds to sea before she is released by competent authority, the master of the ship shall be guilty of an offence under this sub-section.

(3) When a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty any person authorised under this Act to detain or survey the ship, the owner, master or agent of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea and shall also be guilty of an offence under this sub-section.

(4) When any owner, or master or agent is convicted of an offence under sub-section (3), the convicting magistrate may inquire into and determine the amount payable on account of expenses by such owner, master or agent under that sub-section and may direct that the same shall be recovered from him in the manner provided for the recovery of fines.

445. (1) When an order under this Act for the payment of any wages or other sums of money is made by a court, magistrate or other officer or authority, and the money is not paid at the time or in the manner directed, the sum mentioned in the order with such further sum as may be thereby awarded for costs, may be levied by distress and sale of the movable property of the person directed to pay the same under a warrant to be issued for that purpose by a magistrate. Levy of wages, etc., by distress of movable property or ship.

(2) Where any court, magistrate or other officer or authority has power under this Act to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then if the person so directed to pay the same is the master, owner or agent of a ship and the same is not paid at the time or in the manner directed by the order, the court, magistrate, officer or authority may, in addition to any other power it or he may have for the purpose of compelling payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of the ship and her equipment.

Notice to be given to consular representative of proceedings taken in respect of foreign ship.

446. If any ship other than an Indian ship is detained under this Act, or if any proceedings are taken under this Act against the master, owner or agent of any such ship, notice shall forthwith be served on the consular officer of the country in which the ship is registered, at or nearest to the port where the ship is for the time being, and such notice shall specify the grounds on which the ship has been detained or the proceedings have been taken.

Application of fines.

447. A magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed or in towards payment of the expenses of the prosecution.

Service of documents.

448. Where for the purposes of this Act, any document is to be served on any person, that document may be served—

(a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode, or by post; and

(b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship, with the person being or appearing to be in command or charge of the ship; and

(c) if the document is to be served on the master of a ship where there is no master and the ship is in India, on the owner of the ship, or, if such owner is not in India, on some agent of the owner residing in India, or, where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

## PART XVII

### MISCELLANEOUS

Power to appoint examiners and to make rules.

449. The Central Government may appoint persons for the purpose of examining the qualifications of persons desirous of practising

the profession of a ship surveyor at any port in India and may make rules—

as to qualifications of ship surveyors.

(a) for the conduct of such examinations and the qualifications to be required;

(b) for the grant of certificates to qualified persons;

(c) for the fees to be paid for such examinations and certificates;

(d) for holding inquiries into charges of incompetency and misconduct on the part of holders of such certificates; and

(e) for the cancellation and suspension of such certificates.

450. No person shall in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section 449 exercise such profession in such port unless he holds a certificate granted under that section:

No person to practise as ship surveyor unless qualified.

Provided that nothing herein contained shall prevent any person employed exclusively by Lloyd's Register of Shipping or Bureau Veritas or any other classification society specified by the Central Government in the Official Gazette in this behalf from discharging any of the duties of such employment or apply to any person specially exempted by the Central Government from the operation of this section.

451. Any person holding a certificate granted under section 449 and exercising the profession of a ship surveyor at any port in India may in the execution of his duties go on board a ship and inspect the same and every part thereof and the machinery, equipment and cargo and may require the unloading or removal of any cargo, ballast or tackle.

Power of ship surveyor to inspect ship.

452. (1) If any person dies on board a foreign-going Indian ship, the proper officer at the port where the crew of the ship is discharged, or the proper officer at any earlier port of call in India, shall, on the arrival of the ship at that port, inquire into the cause of death, and shall make in the official log book an endorsement to the effect, either that the statement of the cause of death in the book is in his opinion true, or the contrary, according to the result of the inquiry.

Inquiry into cause of death on board Indian ship.

(2) If, in the course of any such inquiry, it appears to the proper officer that a death has been caused on board the ship by violence or other improper means, he shall either report the matter to the

Director-General or, if the emergency of the case so requires, shall take immediate steps for bringing the offender to trial.

Certain persons deemed to be public servants.

453. The following persons shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 45 of 1860, namely:—

- (a) every surveyor;
- (b) every judge, assessor or other person acting under Part XII;
- (c) every person appointed under this Act to report information as to shipping casualties;
- (d) every person authorised under this Act to make any investigation or inquiry under Part X and all persons whom he calls to his aid;
- (e) every person directed to make an investigation into an explosion or fire on a ship under section 388;
- (f) every other officer or person appointed under this Act to perform any functions thereunder.

Powers of persons authorised to investigate, etc.

454. (1) Every judge, assessor, officer or other person who is empowered by this Act to make an investigation or inquiry or to board, survey, inspect or detain a ship—

- (a) may go on board any ship and inspect the same or any part thereof, or any of the machinery, equipment or articles on board thereof, or any certificates of the master or other officer to which the provisions of this Act or any of the rules or regulations thereunder apply, not unnecessarily detaining or delaying the ship from proceeding on any voyage, and if in consequence of any accident to the ship or for any other reason it is considered necessary so to do, may require the ship to be taken into dock for the purpose of inspection or survey;
- (b) may enter and inspect any premises, the entry and inspection of which appears to be requisite for the purpose aforesaid;
- (c) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine them for the purpose aforesaid, and may require answers or returns to any enquiries he thinks fit to make;

(d) may require and enforce the production of all relevant books, papers, or documents;

(e) may administer oaths or may in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination; and

(f) may muster the crew of any such ship.

(2) No person shall hinder or obstruct any officer or person referred to in sub-section (1) from going on board any ship or otherwise impede him in the execution of his duties or the exercise of his powers under this Act.

*Explanation.*—In this section, "ship" includes a sailing vessel.

455. (1) This Act shall not, except where specially provided, apply to ships belonging to any foreign prince or State and employed otherwise than for profit in the public service of the foreign prince or State. **Exemption of public ships, foreign and Indian.**

(2) The Central Government may, by notification in the Official Gazette, direct that the provisions of this Act or any of them shall not apply to ships belonging to the Government or to any class of such ships.

456. (1) Notwithstanding anything contained in this Act, the Central Government may, by order in writing and upon such conditions, if any, as it may think fit to impose, exempt any ship or sailing vessel or any master, tindal or seaman from any specified requirement contained in or prescribed in pursuance of this Act or dispense with the observance of any such requirement in the case of any ship or sailing vessel or any master, tindal or seaman, if it is satisfied that that requirement has been substantially complied with or that compliance with the requirement is or ought to be dispensed with in the circumstances of the case. **Power to exempt.**

(2) Where an exemption is granted under sub-section (1) subject to any conditions, a breach of any of those conditions shall, without prejudice to any other remedy, be deemed to be an offence under this sub-section.

457. Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules generally to carry out the purposes of this Act. **General power to make rules.**

458. (1) All rules and regulations made under this Act shall be published in the Official Gazette. **Provisions with respect to rules and regulations.**

(2) In making a rule or regulation under this Act, the Central Government may direct that a breach thereof shall be punishable—

(a) in the case of a rule made under section 331, with imprisonment which may extend to two years, or with fine which may extend to ten thousand rupees, or with both;

(b) in the case of any other rule or regulation made under any other provision of this Act, with fine which may extend to one thousand rupees;

and in either case if the breach is a continuing one, with further fine which may extend to fifty rupees for every day after the first during which the breach continues.

(3) All rules and regulations made under this Act shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

Power to constitute committees to advise on rules, regulations and scales of fees.

459. (1) The Central Government may, if it thinks fit, constitute one or more committees consisting of such number of persons as it may appoint thereto representing the interests principally affected or having special knowledge of the subject-matter, for the purpose of advising it when considering the making or alteration of any rules, regulations or scales of fees under this Act or for any other purpose connected with this Act.

(2) There shall be paid to the members of any such committee such travelling and other allowances as the Central Government may fix.

(3) Committees may be constituted under this section to advise the Central Government either generally as regards any rules, regulations or scales of fees or as regards any class or classes of rules, regulations or scales of fees in particular or for any other purpose connected with this Act.

Protection of persons acting under Act.

460. No suit 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.

## PART XVIII

### REPEALS AND SAVINGS

Repeals and savings.

461. (1) The enactments specified in Part I of the Schedule are hereby repealed to the extent specified in the fourth column thereof.

(2) The enactments specified in Part II of the Schedule, in so far as they extend to and operate as part of the law of India, are hereby repealed.



(3) Notwithstanding the repeal of any enactment by sub-section (1) or sub-section (2), -

(a) any notification, rule, regulation, bye-law, order or exemption issued, made or granted under any enactment hereby repealed shall, until revoked, have effect as if it had been issued, made or granted under the corresponding provision of this Act;

(b) any officer appointed and any body elected or constituted under any enactment hereby repealed shall continue and shall be deemed to have been appointed, elected or constituted, as the case may be, under this Act;

(c) any document referring to any enactment hereby repealed shall be construed as referring to this Act or to the corresponding provision of this Act;

(d) any fine levied under any enactment hereby repealed may be recovered as if it had been levied under this Act;

(e) any offence committed under any enactment hereby repealed may be prosecuted and punished as if it had been committed under this Act;

(f) sailing vessels registered under any enactment hereby repealed shall be deemed to have been registered under this Act;

(g) mortgages of ships recorded in any register book maintained at any port in India under any enactment hereby repealed shall be deemed to have been recorded in the register book under the corresponding provision of this Act;

(h) any licence, certificate of competency or service, certificate of survey, A or B certificate, safety certificate, qualified safety certificate, radio telegraphy certificate, radio telephony certificate, safety equipment certificate, exemption certificate, international or Indian load line certificate or any other certificate or document issued, made or granted under any enactment hereby repealed and in force at the commencement of this Act shall be deemed to have been issued, made or granted under this Act and shall, unless cancelled under this Act, continue in force until the date shown in the certificate or document, as the case may be.

(4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 6 of the 10 of 1897, General Clauses Act, 1897, with regard to the effect of repeals.

## THE SCHEDULE

## ENACTMENTS REPEALED

## PART I

[See section 461 (1)]

Year	No.	Short title	Extent of repeal
1838	19	The Coasting Vessels Act, 1838.	In so far as it applies to sea-going ships fitted with mechanical means of propulsion and to sailing vessels.
1841	10	✓ The Indian Registration of Ships Act, 1841.	The whole.
1850	11	The Indian Registration of Ships Act (1841) Amendment Act, 1850.	The whole.
1923	21	✓ The Indian Merchant Shipping Act, 1923.	The whole.
1946	21	The Merchant Seamen (Litigation) Act, 1946.	The whole.
1947	26	The Control of Shipping Act, 1947.	The whole.
1949	18	The Merchant Shipping Laws (Extension to Acceding States and Amendment) Act, 1949.	The whole.

## PART II

[See section 461 (2)]

Year	Short title
1823	Lascars Act (4 Geo. 4, c. 80).
✓ 1894	Merchant Shipping Act (57 & 58 Vict., c. 60).
1897	Merchant Shipping Act (60 & 61 Vict., c. 59).
1898	Merchant Shipping (Liability of Shipowners) Act (61 & 62 Vict., c. 14).
1898	Merchant Shipping (Mercantile Marine Fund) Act (61 & 62 Vict., c. 44).
1900	Merchant Shipping (Liability of Shipowners and others) Act (63 & 64 Vict., c. 32).
1906	Merchant Shipping Act (6 Edw. 7, c. 48).
1907	Merchant Shipping Act (7 Edw. 7, c. 52).
1911	Merchant Shipping (Seamen's Allotment) Act (1 & 2 Geo. 5, c. 8).
1911	Merchant Shipping Act (1 & 2 Geo. 5, c. 42).
1911	Maritime Conventions Act (1 & 2 Geo. 5, c. 57).

**Not Corrected: See India Code**

Of 1958]

*Merchant Shipping*

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Year	Short title
1914	Merchant Shipping (Certificates) Act (4 & 5 Geo. 5, c. 42).
1916	Merchant Shipping (Salvage) Act (6 & 7 Geo. 5, c. 41).
1919	Merchant Shipping (Wireless Telegraphy) Act (9 & 10 Geo. 5, c. 38).
1921	Merchant Shipping Act (11 & 12 Geo. 5, c. 28).
1923	Merchant Shipping Acts (Amendment) Act (13 & 14 Geo. 5, c. 40).
1925	Merchant Shipping (Equivalent Provisions) Act (15 & 16 Geo. 5, c. 37).
1932	Merchant Shipping (Safety and Load Line Conventions) Act (22 & 23 Geo. 5, c. 9).
1936	Merchant Shipping (Carriage of Munitions to Spain) Act (1 Edw. 8 & 1 Geo. 6, C.1).
1937	Merchant Shipping (Spanish Frontiers Observation) Act (1 Edw. 8 & 1 Geo. 6, C. 19).
1937	Merchant Shipping Act (1 Edw. 8 & 1 Geo. 6, c. 23).
1937	Merchant Shipping (Superannuation Contributions) Act (1 Geo. 6, c. 4).
1940	Merchant Shipping (Salvage) Act (3 & 4 Geo. 6, c. 43).

# THE TEA (ALTERATION IN DUTIES OF CUSTOMS AND EXCISE) ACT, 1958

No. 45 OF 1958

[25th November, 1958]

An Act further to amend the Indian Tariff Act, 1934, and the Central Excises and Salt Act, 1944, for the purpose of altering the duties of customs and excise on tea.

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

Short title. 1. This Act may be called the Tea (Alteration in Duties of Customs and Excise) Act, 1958.

Amendment of Second Schedule, Act 32 of 1934. 2. In the Second Schedule to the Indian Tariff Act, 1934, for Item No. 5, the following Item shall be substituted, namely:—

“5 Tea . . . . . Not exceeding 30 naye paise per lb. as the Central Government may, by notification in the Official Gazette, fix.”

Amendment of First Schedule, Act 1 of 1944. 3. In the First Schedule to the Central Excises and Salt Act, 1944, for Item No. 14, the following Item shall be substituted, namely:—

“14 TEA—

“Tea” includes all varieties of the product known commercially as tea, and also includes green tea.

(1) Tea, all varieties except package tea falling within sub-item (2) of this Item. Not exceeding 19 naye paise per lb. as the Central Government may, by notification in the Official Gazette, fix.

(2) Package tea, that is to say, tea packed in any kind of container containing not more than 60 lbs. net of tea. 21 naye paise per lb., plus the duty for the time being leviable under sub-item (1) of this Item, if not already paid.”

THE HIGH COURT JUDGES (CONDITIONS OF SERVICE) AMENDMENT ACT, 1958

No. 46 OF 1958

1958

[17th December, 1958]

An Act further to amend the High Court Judges (Conditions of Service) Act, 1954.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the High Court Judges (Conditions of Service) Amendment Act, 1958. Short title and commencement.

(2) It shall be deemed to have come into force on the 1st day of November, 1956.

2. In section 2 of the High Court Judges (Conditions of Service) Act, 1954 (hereinafter referred to as the principal Act), in sub-section (1), in clause (g), for the words "and acting Chief Justice of a High Court", the words "an acting Chief Justice, an additional Judge and an acting Judge of the High Court" shall be substituted. Amendment of section 2.

3. In section 6 of the principal Act, for the words "and not more than once", the words "or for two or more periods, not exceeding in the aggregate, six months" shall be substituted. Amendment of section 6.

4. In section 8 of the principal Act, for the words "Extraordinary leave not exceeding six months in duration may be granted to a Judge not more than once" the words "Extraordinary leave may be granted to a Judge for a period not exceeding six months, or for two or more periods, not exceeding in the aggregate, six months" shall be substituted. Amendment of section 8.

5. In section 14 of the principal Act, after the proviso, the following further proviso shall be inserted, namely:— Amendment of section 14.

"Provided further that if a Judge at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service in the Union or a State, the pension payable under this Act shall be in lieu of, and not in addition to, that pension."

Amendment  
of section  
18.

6. In section 18 of the principal Act, the proviso shall be omitted.

Insertion of  
new sections  
23A and 23B.

7. After section 23 of the principal Act the following sections shall be inserted, namely:—

Vacation of  
High Courts.

“23A. (1) Every High Court shall have a vacation or vacations for such period or periods as may, from time to time, be fixed by the President, by order notified in this behalf in the Official Gazette, and every such order shall have effect notwithstanding anything contained in any other law, rule or order regulating the vacation of the High Court.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.

Special pro-  
visions in  
respect of  
continuing  
Judges.

23B. (1) In the calculation of the service for pension of a continuing Judge for the purposes of this Act, his previous service for pension as a Chief Justice or as a Judge of a former High Court in a Part B State, under the provisions of the High Court Judges (Part B States) Order, 1953, or any other order or rule then applicable to him, shall be reckoned as service for pension as a Chief Justice or, as the case may be, as a Judge under this Act.

(2) In the calculation of the amount of leave at the credit of a continuing Judge for the purposes of this Act, the amount of leave due to him immediately before the 1st day of November, 1956, under the provisions of the High Court Judges (Part B States) Order, 1953, or any other order or rule then applicable to him, shall be added to the amount of leave at his credit under this Act.

(3) In this section, “continuing Judge” means a Judge of a former High Court in a Part B State who on the 1st day of November, 1956, or on any date subsequent thereto has become or been appointed as a Judge of a High Court for a State.”

Amendment  
of section  
24.

8. In section 24 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.”

Amendment  
of section  
25.

9. Section 25 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the

following sub-section shall be inserted, namely:—

“(2) Nothing contained in this Act, as amended by the High Court Judges (Conditions of Service) Amendment Act, 1958, shall have effect so as to give to a Chief Justice or a Judge of a former High Court in a Part B State less favourable terms in respect of his allowances or his rights in respect of leave of absence (including the leave allowances) or pension than those to which he would be entitled under the High Court Judges (Part B States) Order, 1953, or any other order or rule then applicable to him, if he had continued as a Judge of that High Court, his service as a Judge on or after the 1st day of November, 1956, being treated as service in that High Court.”

Amendment  
of the First  
Schedule.

10. In the First Schedule to the principal Act,—

(a) in Part I to paragraph 9, the following proviso shall be added, namely:—

“Provided that nothing in this paragraph shall apply—

(a) to an additional Judge or acting Judge; or

(b) to a Judge who at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Union or a State.”;

(b) in Part II, for paragraph 3, the following paragraph shall be substituted, namely:—

“3. If such a Judge has completed not less than seven years of service for pension in a High Court, he shall be entitled to an additional pension in accordance with the following scale:—

	Per annum Rs.
For seven completed years of service for pension	1,333
For eight completed years of service for pension	1,600
For nine completed years of service for pension	1,866
For ten completed years of service for pension	2,133
For eleven completed years of service for pension	2,400
For twelve or more completed years of service for pension	2,666.”

## THE POISONS (AMENDMENT) ACT, 1958

No. 47 OF 1958

[17th December, 1958]

An Act further to amend the Poisons Act, 1919.

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

- Short title. 1. This Act may be called the Poisons (Amendment) Act, 1958.
- Amendment of section 1. 2. In section 1 of the Poisons Act, 1919 (hereinafter referred to as the principal Act), for sub-section (2), the following sub-section shall be substituted, namely:—
- “(2) It extends to the whole of India:
- Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to the importation into India of any specified poison.”.
- Amendment of sections 3 and 6. 3. In section 3 and clause (b) of section 6 of the principal Act, for the words “the States” the word “India” shall be substituted.
- Repeal. 4. The enactments specified in the Schedule are hereby repealed.

### THE SCHEDULE

(See section 4)

1. The Cochin Poisons Act, 1111 (XXX of 1111).
2. The (Hyderabad) Poisons Act (IV of 1322 Fasli).
3. The Madhya Bharat Poisons Act, Samvat 2008 (5 of Samvat 2008).
4. The Mysore Poisons Act, 1910 (V of 1910).
5. The Patiala Poisons Act, 1989 BK (I of 1989 BK).
6. The Rajasthan Poisons Act, 1956 (2 of 1956).
7. The Saurashtra Poisons Act, 1952 (XXV of 1952).
8. The Travancore Poisons Act, 1118 (XI of 1118).



Rep. by Aht. SA of 1980/52 + Sec 9 (as Act 26 12 60)

THE ASSAM RIFLES (AMENDMENT) ACT, 1958

No. 48 OF 1958

[26th December, 1958]

An Act further to amend the Assam Rifles Act, 1941.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. This Act may be called the Assam Rifles (Amendment) Act, Short title, 1958.

2. In clause (a) of sub-section (1) of section 8 of the Assam Rifles Act, 1941, after the word "Commandant", the words "or an Assistant Commandant" shall be inserted.

of section 8,  
Act 5 of  
1941.

**THE APPROPRIATION (RAILWAYS) No. 4 ACT, 1958**  
**No. 49 OF 1958**

[26th December, 1958]

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, 1956, in excess of the amounts granted for those services and for that year.

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

Short title. 1. This Act may be called the Appropriation (Railways) No. 4 Act, 1958.

Issue of Rs. 4,73,16,887 out of the Consolidated Fund of India to meet certain expenditure for the year ended on the 31st March, 1956. Appropriation.

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 four crores, seventy-three lakhs, sixteen thousand, eight hundred and eighty-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 relating to railways specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1956, in excess of the amounts granted for those services and for that year.

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1956.

**THE SCHEDULE**  
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums aggregating to		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
3	Miscellaneous Expenditure	..	77	77
13	Appropriation to Development Fund	4,64,49,479	..	4,64,49,479
15	Construction of New Lines	8,67,331	..	8,67,331
	TOTAL	4,73,16,810	77	4,73,16,887

THE APPROPRIATION (RAILWAYS) No. 5 ACT, 1958

No. 50 OF 1958

[26th December, 1958]

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, 1957, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (Railways) No. 5 Short title Act, 1958.

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 three crores, seventy-two lakhs, forty-four thousand, one hundred and one rupees shall be deemed to have been authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services relating to railways specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1957, in excess of the amounts granted for those services and for that year.

Issue of Rs.  
3,72,44,101  
out of the  
Consolidat-  
ed Fund  
of India  
to meet  
certain  
excess ex-  
penditure  
for the  
year ended  
on the 31st  
March,  
1957.

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, 1957.

**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.
1	Railway Board	1,42,546		1,42,546
3	Payment to Worked Lines and others	90,879		90,879
5	Working Expenses—Repairs and Maintenance	1,87,86,101		1,87,86,101
8	Working Expenses—Operation other than Staff and Fuel	32,53,447	57,905	33,11,352
9	Working Expenses—Miscellaneous Expenses	1,46,86,582	2,26,641	1,49,13,223
	TOTAL	3,69,59,555	2,84,546	3,72,44,101

# THE APPROPRIATION (No. 5) ACT, 1958

No. 51 OF 1958

[26th December, 1958]

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 1958-59.

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

1. This Act may be called the Appropriation (No. 5) Act, 1958. 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 twenty-two crores, forty-nine lakhs and ninety thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1958-59, in respect of the services specified in column 2 of the Schedule.

Issue of Rs. 22,49,90,000 out of the Consolidated Fund of India for the year 1958-59.

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 years.

## 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 Con- solidated Fund	Total
		Rs.	Rs.	Rs.
9	Defence Services—Effective—Army		2,01,000	2,01,000
22	Tribal Areas	40,81,000	..	40,81,000
31	Opium	28,05,000	..	28,05,000
59	Delhi	1,95,00,000	..	1,95,00,000
65	Miscellaneous Departments and Expenditure under the Ministry of Home Affairs	..	16,000	16,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
72	Ministry of Labour and Employment	1,50,000	..	1,50,000
99	Department of Atomic Energy	1,00,000	..	1,00,000
	CHARGED.— <i>Staff, Household and Allowances of the President</i>	..	5,96,000	5,96,000
106	Capital Outlay of the Ministry of Commerce and Industry	4,43,50,000	..	4,43,50,000
110	Capital Outlay of the Ministry of External Affairs	26,84,000	..	26,84,000
117	Loans and Advances by the Central Government	..	15,00,00,000	15,00,00,000
120	Other Capital Outlay of the Ministry of Food and Agriculture	..	7,000	7,000
128	Capital Outlay of the Ministry of Steel, Mines and Fuel	5,00,000	..	5,00,000
	TOTAL	7,41,70,000	15,08,20,000	22,49,90,000

THE INDIAN TARIFF (AMENDMENT) ACT, 1958

No. 52 OF 1958

[26th December, 1958]

An Act further to amend the Indian Tariff Act, 1934.

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

1. (1) This Act may be called the Indian Tariff (Amendment) Act, 1958. Short title and commencement.

(2) The provisions of clauses (i) and (vi) of section 2 [relating to Items Nos. 18, 28 (1), 28 (17), 48 (1), 48 (4), 48 (5), 48 (7), 49 (a) and 71 (14)] shall come into force on the first day of January, 1959, and the remaining provisions shall come into force at once.

32 of 1934.

2. In the First Schedule to the Indian Tariff Act, 1934,— Amendment of First Schedule.  
(i) in Items Nos. 18, 28 (1), 28 (17), 48 (1), 48 (4), 48 (5), 48 (7) and 49 (a)—

(a) in the third column headed "Nature of duty", for the word "Protective", wherever it occurs, the word "Revenue" shall be substituted, and

(b) in the last column headed "Duration of protective rates of duty", the existing entries shall be omitted;

(ii) in Items Nos. 28 (4), 28 (33), 28 (34) and 72 (14), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1958", wherever they occur, the word, figures and letters "December 31st, 1961" shall be substituted;

(iii) in Items Nos. 46, 46 (1), 47, 47 (1), 48 and 70 (2), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1958", wherever they occur, the word, figures and letters "December 31st, 1963" shall be substituted;

(iv) in each of the Items Nos. 66 (a) and 66 (1), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1958", the word, figures and letters "December 31st, 1960" shall be substituted;

(v) in Item No. 70(3)—

(a) in the fourth column headed "Standard rate of duty", for the figures and words "35 per cent. *ad valorem*", the figures and words "45 per cent. *ad valorem* or Rs. 45.00 per cwt., whichever is higher" shall be substituted, and

(b) in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1958", the word, figures and letters "December 31st, 1963" shall be substituted;

(vi) for Item No. 71(14), the following Item shall be substituted, namely:—

71(14)	Steel files (including saw files but excluding jewellers' files, watch-makers' files, other needle files, mill tooth files, rotary power files and ampoule files) of the following sizes, namely:—				
	not less than 3½ inches but not exceeding 5½ inches.	Protective	Rs. 7.00 per dozen.	.. ..	December 31st, 1960.
	exceeding 5½ inches but not exceeding 7 inches.	Protective	Rs. 8.00 per dozen.	.. ..	December 31st, 1960.
	exceeding 7 inches but not exceeding 8 inches.	Protective	Rs. 11.00 per dozen.	.. ..	December 31st, 1960.
	exceeding 8 inches but not exceeding 10 inches.	Protective	Rs. 15.00 per dozen.	.. ..	December 31st, 1960.
	exceeding 10 inches but not exceeding 12 inches.	Protective	Rs. 19.00 per dozen.	.. ..	December 31st, 1960.
	exceeding 12 inches but not exceeding 14 inches.	Protective	Rs. 26.00 per dozen.	.. ..	December 31st, 1960.
	exceeding 14 inches but not exceeding 18 inches.	Protective	Rs. 34.00 per dozen.	.. ..	December 31st, 1960.;

(vii) in Item No. 72(d), in the second column headed "Name of article", for the words "and also with squirrel cage electric motors of one-quarter of one brake-horse-power and above", the words, figures, brackets and letter "and also with electric motors falling under Item No. 72(14)(a)" shall be substituted.



THE FOREIGN EXCHANGE REGULATION  
(AMENDMENT) ACT, 1958

NO. 53 OF 1958

[27th December, 1958]

An Act further to amend the Foreign Exchange Regulation Act, 1947.

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

1. This Act may be called the Foreign Exchange Regulation (Amendment) Act, 1958. Short title.

7 of 1947.

2. For section 13A of the Foreign Exchange Regulation Act, 1947, the following section shall be substituted, namely:—

Substitution of new section for section 13A.

18 of 1944.

13A. Notwithstanding anything contained in any other law or in any contract, agreement or other instrument, the holder of any Government security, as defined in the Public Debt Act, 1944, created and issued for the purpose of raising a public loan before the 15th day of August, 1947, in respect of which the principal or interest or both are for the time being payable outside India in any country or place notified in this behalf by the Central Government shall not be entitled, except with the general or special permission of the Reserve Bank, to have any such payment made at any place in India. Restrictions on payment in respect of certain securities.

Explanation.—In this section, "holder" shall have the same meaning as in clause (a) of sub-section (5) of section 13.

THE PREVENTION OF DISQUALIFICATION  
(AMENDMENT) ACT, 1958

No. 54 OF 1958

[27th December, 1958]

An Act further to amend the Prevention of Disqualification Act, 1953.

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

**Short title.** 1. This Act may be called the Prevention of Disqualification (Amendment) Act, 1958.

**Amendment of section 4:** 2. In section 4 of the Prevention of Disqualification Act, 1953, for 1 of 1953 the figures and words "31st day of December, 1958", the figures and words "31st day of December, 1959" shall be substituted.

5.24 sch 2 (w. et. 26/2/60)

THE SALARIES AND ALLOWANCES OF MEMBERS OF PARLIAMENT (AMENDMENT) ACT, 1958

No. 55 OF 1958

[30th December, 1958]

An Act further to amend the Salaries and Allowances of Members of Parliament Act, 1954.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. This Act may be called the Salaries and Allowances of Members of Parliament (Amendment) Act, 1958. Short title.

39 of 1954.

2. In section 2 of the Salaries and Allowances of Members of Parliament Act, 1954 (hereinafter referred to as the principal Act),— Amendment of section 2.

(a) in clause (b), for the words "but does not include", the words "but, save as otherwise expressly provided in this Act, does not include" shall be substituted;

(b) in clause (d), in sub-clause (i), for the words "end of the session", the words "date on which the House of Parliament is adjourned sine die or for a period exceeding seven days" shall be, and shall be deemed always to have been, substituted.

3. In section 3 of the principal Act, for the word "plus", the words "and subject to any rules made under this Act", shall be, and shall be deemed always to have been, substituted. Amendment of section 3.

4. In section 4 of the principal Act,—

Amendment of section 4.

(a) in sub-section (1),—

(i) after the words "every journey performed by him", the words "in India" shall be inserted;

(ii) for sub-clause (i) of clause (c), the following sub-clause shall be, and shall be deemed always to have been, substituted, namely:—

"(i) where the journey or any part thereof is performed by steamer, an amount equal to one and three-fifths of the fare (without diet) for the highest class in the steamer for each such journey or part thereof, or,

if there is no regular steamer service, such amount for each such journey or part thereof as may be prescribed by rules made under section 9;"

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

"(3) There shall be paid to a member in respect of a journey performed by him in the course of a tour outside India undertaken in the discharge of his duties as such member, such travelling and daily allowances as may be prescribed by rules made under section 9."

Substitution  
of new section  
for  
section 6.  
Free transit  
by railway.

5. For section 6 of the principal Act, the following section shall be substituted, namely:—

"6. (1) Every member shall be provided with one free non-transferable first class pass which shall entitle him to travel at any time by any railway in India.

*Explanation.*—For the purposes of this sub-section, a member shall include a Minister as defined in the Salaries and Allowances of Ministers Act, 1952, and an officer of Parliament as defined in the Salaries and Allowances of Officers of Parliament Act, 1953, other than the Chairman of the Council of States.

58 of 1952.

20 of 1953.

(2) A free railway pass issued to a member under sub-section (1) shall be valid for the term of his office and on the expiration of such term, the pass shall be surrendered to the Secretary of the House of the People or the Council of States, as the case may be:

Provided that where any such pass is issued to a new member before he takes his seat in either House of Parliament, he shall be entitled to use the pass for attending a session of that House for taking his seat therein.

(3) Until a member is provided with a free railway pass under sub-section (1), he shall be, and shall be deemed always to have been, entitled to an amount equal to one first class fare for any journey of the nature referred to in sub-section (1) of section 4 performed by him by rail.

(4) A member who on ceasing to be a member surrenders his pass shall, if he performs any return journey by rail of the nature referred to in sub-section (1) of section 4, be entitled and be deemed always to have been entitled in respect of that journey to an amount equal to one first class fare.

(5) Nothing in this section shall be construed as disentitling a member to any travelling allowances to which he is otherwise entitled under the provisions of this Act."

6. In section 7 of the principal Act, for the words "Where the interval between the termination of one session of a House of Parliament or, as the case may be, one sitting of a committee and the commencement of another session or sitting at the same place", the following words shall be, and shall be deemed always to have been, substituted, namely:—

"Where the interval between the adjournment of a House of Parliament or, as the case may be, one sitting of a committee and the re-assembly of that House or the next sitting of the committee at the same place".

7. In section 8 of the principal Act, for the word "medical", the words "medical facilities for himself and for members of his family and to such" shall be substituted.

8. In section 9 of the principal Act,—

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

"(2A) A member of the Joint Committee shall hold office as such member for one year from the date of his nomination and any casual vacancy in the Joint Committee may be filled by nomination by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

*Explanation.*—In the case of a member of a Joint Committee holding office as such immediately before the commencement of the Salaries and Allowances of Members of Parliament (Amendment) Act, 1958, the period of one year shall be computed from the date of such commencement."

(b) in sub-section (3),—

(i) after the word "may", the words "after consultation with the Central Government" shall be inserted;

(ii) in clause (c), the following words shall be added at the end, namely:—

"and the reduction of the daily allowance where a member is provided with free board or lodging at the expense of the Government or a local authority;"

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

“(dd) the travelling allowance admissible in respect of journeys performed by any vessel where there is no regular steamer service;

“(ddd) the travelling and daily allowances admissible for journeys performed by a member in the course of a tour outside India undertaken in connection with his duties as such member;”

Amendment  
of section 10.

9. Section 10 of the principal Act shall be re-numbered as sub-section (1) thereof, and after the said sub-section as so re-numbered, the following sub-sections shall be inserted, namely:—

“(2) All travelling and daily allowances paid to a member before the commencement of the Salaries and Allowances of Members of Parliament (Amendment) Act, 1958, in respect of journeys performed by him in the course of a tour outside India in the discharge of his duties as such member, shall be deemed to have been validly paid and the payment of such allowances shall not be called in question by any authority;

“(3) All rules providing for any of the matters included in sub-section (3) of section 9 by the Salaries and Allowances of Members of Parliament (Amendment) Act, 1958, made before the commencement of that Act and in force at such commencement shall be deemed to have been validly made as if the said sub-section as amended by that Act had been in force on the date on which such rules were made.”

*See India Code  
Volume II B.*

**THE HIMACHAL PRADESH LEGISLATIVE ASSEMBLY  
(CONSTITUTION AND PROCEEDINGS) VALIDATION  
ACT, 1958**

No. 56 OF 1958

[30th December, 1958]

An Act to validate the constitution and proceedings of the Legislative Assembly of the New State of Himachal Pradesh formed under the Himachal Pradesh and Bilaspur (New State) Act, 1954.

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

1. This Act may be called the Himachal Pradesh Legislative Assembly (Constitution and Proceedings) Validation Act, 1958. **Short title.**

2. In this Act, "new Legislative Assembly" means the body of persons deemed under clause (a) of section 3 to have been the duly constituted Legislative Assembly of the New State of Himachal Pradesh. **Definition.**

3. Notwithstanding anything contained in any law or in any judgment, decree or order of any court,— **Validation of the constitution and proceedings of the Legislative Assembly of the new State of Himachal Pradesh.**

(a) the body of persons summoned to meet from time to time as the Himachal Pradesh Legislative Assembly (Himachal Pradesh Vidhan Sabha) during the period commencing on the 1st day of July, 1954, and ending with the 31st day of October, 1956, by the Lieutenant-Governor of Himachal Pradesh in the exercise or purported exercise of the powers conferred on him by section 9 of the Government of Part C States Act, 1951, shall be deemed for all purposes to have been the duly constituted Legislative Assembly of the new State of Himachal Pradesh formed under section 3 of the Himachal Pradesh and Bilaspur (New State) Act, 1954;

(b) the persons who sat or voted or otherwise took part in the proceedings of the new Legislative Assembly shall be deemed to have been entitled so to do as members;

(c) the persons who functioned as the Speaker and the Deputy Speaker of the new Legislative Assembly shall be deemed to have been duly chosen as the Speaker and the Deputy Speaker respectively;

and accordingly—

(i) any Bill passed by the new Legislative Assembly (whether the Bill was introduced in the new Legislative Assembly or was introduced in the Legislative Assembly of Himachal Pradesh functioning immediately before the 1st day of July, 1954) and assented to by the President shall be deemed to have been validly enacted and to have the force of law;

(ii) any grant made, resolution passed or adopted, proceeding taken or any other thing done by or before the new Legislative Assembly shall be deemed to have been made, passed, adopted, taken or done in accordance with law.

Court not to question validity of proceedings of new Legislative Assembly on the ground of defect in constitution, etc.

4. No court shall question any Act passed, or any grant, resolution, proceeding or thing made, passed, adopted, taken or done, by or before the new Legislative Assembly merely on the ground that the new Legislative Assembly had not been duly constituted or on the ground that a person who was not entitled so to do presided over, sat or voted or otherwise took part in the proceedings of the new Legislative Assembly.

Repeal.

5. The Himachal Pradesh Legislative Assembly (Constitution and Proceedings) Validation Ordinance, 1958, is hereby repealed. 7 of 1958.



THE ORISSA WEIGHTS AND MEASURES (DELHI  
REPEAL) ACT, 1958

No. 57 OF 1958

[30th December, 1958]

An Act to provide for the repeal of the Orissa Weights and Measures Act, 1943, in its application to the Union territory of Delhi.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. This Act may be called the Orissa Weights and Measures (Delhi Repeal) Act, 1958. Short title.

2. In this Act,—

Definitions.

Orissa Act  
7 of 1943.  
13 of 1912.

(a) "Orissa Act" means the Orissa Weights and Measures Act, 1943, as extended to Delhi by notification under section 7 of the Delhi Laws Act, 1912;

Rajasthan  
Act 32 of  
1958.

(b) "Rajasthan Act" means the Rajasthan Weights and Measures (Enforcement) Act, 1958, as extended to the Union territory of Delhi by notification under section 2 of the Union Territories (Laws) Act, 1950.

30 of 1950.

3. On the date on which the Rajasthan Act or any provision contained therein comes into force by virtue of a notification issued under sub-section (3) of section 1 of that Act in the Union territory of Delhi or any part thereof in respect of any class of undertakings or any class of goods, the Orissa Act or any provision contained therein, which is applicable to those undertakings or goods in the said territory or part thereof, as the case may be, shall stand repealed. Repeal of  
Orissa Act.

Provided that the repeal shall not affect—

(a) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if that Act had not been repealed.

Rep. by Act 50 of 1958, s. 24 sec 1 (Act 26/26)

THE REPRESENTATION OF THE PEOPLE  
(AMENDMENT) ACT, 1958

NO. 58 OF 1958

[30th December, 1958]

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 Ninth Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. This Act may be called the Representation of the People (Amendment) Act, 1958. Short title.

PART II

AMENDMENTS OF THE REPRESENTATION OF THE PEOPLE ACT, 1950

2. In section 3 of the Representation of the People Act, 1950 (hereinafter referred to as the 1950-Act), for sub-section (1), the following sub-section shall be substituted, namely:— Amendment of section 3.

(d) The allocation of seats in the House of the People shall be as shown in the First Schedule."

3. Section 3A of the 1950-Act shall be omitted.

Omission of section 3A.

4. For section 7 of the 1950-Act, the following section shall be substituted, namely:—

Substitution of new section for section 7.

"7. The total number of seats in the Legislative Assembly of each State specified in the first column of the Second Schedule, to be filled by persons chosen by direct election, shall be the number specified in the second column thereof opposite to that State."

Total number of seats in the Legislative Assemblies.

5. As from the 1st day of January, 1959, in section 14 of the 1950-Act, in clause (b), for the words, figure and letters "the 1st day of March", the words, figure and letters "the 1st day of January" shall be substituted.

Amendment of section 14.

6. In section 17 of the 1950-Act, the words "in the same State" shall be omitted.

Amendment of section 17.

Substitution  
of new sec-  
tion for sec-  
tion 19.

7. For section 19 of the 1950-Act, the following section shall be substituted, namely:—

Conditions  
of  
registration.

“19. Subject to the foregoing provisions of this Part, every person who—

(a) is not less than twenty-one years of age on the qualifying date, and

(b) is ordinarily resident in a constituency,

shall be entitled to be registered in the electoral roll for that constituency.”

Amendment  
of section 20.

8. In section 20 of the 1950-Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) A person shall not be deemed to be ordinarily resident in a constituency on the ground only that he owns, or is in possession of, a dwelling house therein.

(1A) A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident therein.

(1B) A member of Parliament or of the Legislature of a State shall not during the term of his office cease to be ordinarily resident in the constituency in the electoral roll of which he is registered as an elector at the time of his election as such member, by reason of his absence from that constituency in connection with his duties as such member.”

Substitution  
of new sec-  
tion for sec-  
tion 22.

9. For section 22 of the 1950-Act, the following section shall be substituted, namely:—

Correction  
of entries in  
electoral  
rolls.

“22. If the electoral registration officer for a constituency, on application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll of the constituency—

(a) is erroneous or defective in any particular,

(b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency, or

(c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll,

the electoral registration officer shall, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry:

Provided that before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him."

10. Section 24 of the 1950-Act shall be omitted.

Omission of section 24.

11. After section 30 of the 1950-Act, the following sections shall be inserted, namely:—

Insertion of new sections 31 and 32 after section 30.

"31. If any person makes in or in connection with—

Making of false declarations.

(a) a claim or an application for the inclusion in an electoral roll of his name, or

(b) an objection to the inclusion therein, or an application for the exclusion or deletion therefrom, of the name of any other person,

a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

32. (1) If any electoral registration officer, assistant electoral registration officer or other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of an electoral roll or the inclusion or exclusion of any entry in or from that roll, is without reasonable cause guilty of any act or omission in breach of such official duty, he shall be punishable with fine which may extend to five hundred rupees.

Breach of official duty in connection with the preparation, etc., of electoral rolls.

(2) No suit or other legal proceeding shall lie against any such officer or other person for damages in respect of any such act or omission as aforesaid.

(3) No court shall take cognizance of any offence punishable under sub-section (1) unless there is a complaint made by order of, or under authority from, the Election Commission or the Chief Electoral Officer of the State concerned."

**Amendment of the First Schedule.** 12. In the First Schedule to the 1950-Act, the whole of Part I, the word and figures "Part II" and the words "as subsequently constituted" shall be omitted.

**Amendment of the Second Schedule.** 13. In the Second Schedule to the 1950-Act, the words, letters and figures "as constituted on the 1st November, 1956", the whole of column 2, and the words "As subsequently constituted or partially reconstituted" shall be omitted and column 3 shall be re-numbered as column 2.

### PART III

#### AMENDMENTS OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

**Amendment of section 2.** 14. In section 2 of the Representation of the People Act, 1951 (hereinafter referred to as the 1951-Act), in clause (d) of sub-section (1), the words "or in the electoral college of a Union territory" shall be omitted.

**Amendment of section 7.** 15. In section 7 of the 1951-Act,—  
(a) for clause (d), the following clause shall be substituted, namely:—

"(d) if there subsists a contract entered into in the course of his trade or business by him with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by, that Government";

(b) in clause (e), for the words "or managing agent of, or holds any office of profit under", the words "managing agent, manager or secretary of" shall be substituted.

**Amendment of section 8.** 16. In section 8 of the 1951-Act,—  
(a) in sub-section (1), clauses (c) and (d) shall be omitted;  
(b) sub-section (2) shall be omitted.

**Amendment of section 9.** 17. In section 9 of the 1951-Act,—  
(a) clause (b) of sub-section (1) shall be omitted; and  
(b) sub-section (2) shall be omitted.

**Amendment of section 34.** 18. In section 34 of the 1951-Act, in sub-section (1),—  
(a) the word "and" shall be added at the end of clause (a);

(b) the word "and" at the end of clause (b), and the whole of clause (c) shall be omitted.

19. In section 39 of the 1951-Act, in sub-section (2), for the word and figures "section 34", the words, brackets, letter and figures "clause (a) of sub-section (1) of section 34" shall be substituted.

Amendment  
of section 39.

20. In section 50 of the 1951-Act, for the word "candidate" wherever it occurs, the words "contesting candidate" shall be substituted.

Amendment  
of section 50.

21. In section 52 of the 1951-Act, in the second proviso, the words, brackets, figures and letter "or a notice of retirement from the contest under sub-section (2) of section 55A" shall be omitted.

Amendment  
of section 52.

22. Section 55A of the 1951-Act shall be omitted.

Omission  
of section  
55A.

23. In section 56 of the 1951-Act, in the proviso, for the words "a constituency", the words "a parliamentary or assembly constituency" shall be substituted.

Amendment  
of section 56.

24. In section 60 of the 1951-Act, in clause (a),—

Amendment  
of section 60.

(a) sub-clause (ii) shall be omitted;

(b) in sub-clause (iv), the brackets and figures "(ii)" shall be omitted.

25. For section 61 of the 1951-Act, the following section shall be substituted, namely:—

Substitution  
of new section  
for section 61.

"61. With a view to preventing personation of electors provision may be made by rules made under this Act,—

Special procedure  
for preventing  
personation  
of electors.

(a) for the marking with indelible ink of the thumb or any other finger of every elector who applies for a ballot paper or ballot papers for the purpose of voting at a polling station before delivery of such paper or papers to him;

(b) for the production before the presiding officer or a polling officer of a polling station by every such elector as aforesaid of his identity card before the delivery of a ballot paper or ballot papers to him if under rules made in that behalf under the Representation of the People Act, 1950, electors of the constituency in which the polling station is situated have been supplied with identity cards with or without their respective photographs attached thereto; and

(c) for prohibiting the delivery of any ballot paper to any person for voting at a polling station if at the time

such person applies for such paper he has already such a mark on his thumb or any other finger or does not produce on demand his identity card before the presiding officer or a polling officer of the polling station."

Amendment of section 64. 26. In section 64 of the 1951-Act, for the word "candidate", the words "contesting candidate" shall be substituted.

Amendment of section 67A. 27. In section 67A of the 1951-Act, the word, figures and letter "i", section 55A" shall be omitted.

Amendment of section 90. 28. In section 90 of the 1951-Act, in sub-section (3), the following *Explanation* shall be inserted, namely:—

"*Explanation.*—An order of the Tribunal dismissing an election petition under this sub-section shall be deemed to be an order made under clause (a) of section 98."

Amendment of section 99. 29. In section 99 of the 1951-Act, in sub-clause (i) of clause (a) of sub-section (1), the words "by, or with the consent of, any candidate or his agent" shall be omitted.

Amendment of section 100. 30. In section 100 of the 1951-Act,—  
(a) in sub-clause (ii) of clause (d) of sub-section (1), for the words "by a person other than that candidate or his election agent or a person acting with the consent of such candidate or election agent" the words "by an agent other than his election agent" shall be substituted; and

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

Amendment of section 116A. 31. In section 116A of the 1951-Act,—  
(a) in sub-section (4), after the word and figures "section 107"; the words "and a copy of the stay order shall immediately be sent by the High Court to the Election Commission and the Speaker or Chairman, as the case may be, of the House of Parliament or of the State Legislature concerned" shall be inserted;

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

"(6) As soon as an appeal is decided, the High Court shall intimate the substance of the decision to the Election Commission and the Speaker or Chairman, as the case may be, of the House of Parliament or of the State Legislature concerned, and as soon as may be thereafter, shall send to the Election Commission an authenticated copy of the decision, and upon its receipt, the Election Commission shall—

(a) forward copies thereof to the authorities to which copies of the order of the Tribunal were forwarded under section 106; and



(b) cause the decision to be published in the gazette or gazettes in which that order was published under the said section."

32. In section 117 of the 1951-Act, the words "the Secretary to" shall be omitted. Amendment of section 117.

33. In section 119A of the 1951-Act, the words "the Secretary to" shall be omitted. Amendment of section 119A.

34. In section 121 of the 1951-Act,— Amendment of section 121.  
 (a) in sub-section (1), for the words and figures "within a period of six months from the publication of such order under section 106", the words "within a period of one year from the date of such order" shall be substituted;

(b) in sub-section (2), for the words "six months", the words "one year" shall be substituted.

35. In section 122 of the 1951-Act, in the proviso, for the words and figures "within a period of six months from the date of publication of such order under section 106", the words "within a period of one year from the date of such order" shall be substituted. Amendment of section 122.

36. In section 123 of the 1951-Act,— Amendment of section 123.  
 (a) for clause (1), the following clause shall be substituted, namely:—

(1) "Bribery", that is to say,—

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing—

(a) a person to stand or not to stand as, or to withdraw from being a candidate at an election, or

(b) an elector to vote or refrain from voting at an election,

or as a reward to—

(i) a person for having so stood or not stood, or for having withdrawn his candidature; or

(ii) an elector for having voted or refrained from voting;

(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward—

(a) by a person for standing or not standing as, or for withdrawing from being, a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw his candidature.

*Explanation.*—For the purposes of this clause the term “gratification” is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses *bona fide* incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in section 78’;

(b) in clause (2), after the words “any other person”, the words “with the consent of the candidate or his election agent” shall be inserted;

(c) in clause (3), after the words “any other person”, the words “with the consent of a candidate or his election agent” shall be inserted;

(d) in clause (4),—

(i) after the words “any other person”, the words “with the consent of a candidate or his election agent” shall be inserted;

(ii) the words “or retirement from contest,” shall be omitted;

(e) in clause (5), after the words “any other person”, the words “with the consent of a candidate or his election agent” shall be inserted;

(f) in clause (7),—

(i) after the words “any other person”, the words “with the consent of a candidate or his election agent” shall be inserted;

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

“(f) revenue officers other than village revenue officers known as lambardars, malguzars, patels, desh-mukhs or by any other name, whose duty is to collect land revenue and who are remunerated by a share of, or commission on, the amount of land revenue collected by them but who do not discharge any police functions; and”.

37. In section 134 of the 1951-Act, in sub-section (3),—

Amendment  
of section  
134.

(a) the words "Electoral Registration Officers, Assistant Electoral Registration Officers,"

(b) the words "the preparation of an electoral roll," and

(c) the words and figures "or by or under the Representation of the People Act, 1950",

43 of 1950.

shall be omitted.

38. In section 136 of the 1951-Act, in sub-section (3), the words and figures "or by or under the Representation of the People Act, 1950" shall be omitted.

43 of 1950.

Amendment  
of section  
136.

39. For section 158 of the 1951-Act, the following section shall be substituted, namely:—

Substitution  
of new sec-  
tion for sec-  
tion 158.

"158. (1) The deposit made under section 34 or under that section read with sub-section (2) of section 39 shall either be returned to the person making it or his legal representative or be forfeited to the appropriate authority in accordance with the provisions of this section.

Return or  
forfeiture of  
candidate's  
deposit.

(2) Except in cases hereafter mentioned in this section, the deposit shall be returned as soon as practicable after the result of the election is declared.

(3) If the candidate is not shown in the list of contesting candidates, or if he dies before the commencement of the poll, the deposit shall be returned as soon as practicable after the publication of the list or after his death, as the case may be.

(4) Subject to the provisions of sub-section (3), the deposit shall be forfeited if at an election where a poll has been taken, the candidate is not elected and the number of valid votes polled by him does not exceed one-sixth of the total number of valid votes polled by all the candidates or in the case of election of more than one member at the election, one-sixth of the total number of valid votes so polled divided by the number of members to be elected:

Provided that where at an election held in accordance with the system of proportional representation by means of the single transferable vote, a candidate is not elected, the deposit made by him shall be forfeited if he does not get more than one-sixth of the number of votes prescribed in this behalf as sufficient to secure the return of a candidate.

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(5) Notwithstanding anything in sub-sections (2), (3) and (4),—

(a) if at a general election, the candidate is a contesting candidate in more than one parliamentary constituency or in more than one assembly constituency, not more than one of the deposits shall be returned, and the others shall be forfeited;

(b) if the candidate is a contesting candidate at an election in more than one council constituency or at an election in a council constituency and at an election by the members of the State Legislative Assembly to fill seats in the Legislative Council, not more than one of the deposits shall be returned, and the others shall be forfeited."

# THE DELHI RENT CONTROL ACT, 1958

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## THE FIRST SCHEDULE.

## THE SECOND SCHEDULE.

# THE DELHI RENT CONTROL ACT, 1958

No. 59 OF 1958

[31st December, 1958]

An Act to provide for the control of rents and evictions and of rates of hotels and lodging houses, and for the lease of vacant premises to Government, in certain areas in the Union territory of Delhi.

BE it enacted by Parliament in the Ninth 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 Delhi Rent Control Act, 1958.

(2) It extends to the areas included within the limits of the New Delhi Municipal Committee and the Delhi Cantonment Board and to such urban areas within the limits of the Municipal Corporation of Delhi as are specified in the First Schedule:

Provided that the Central Government may, by notification in the Official Gazette, extend this Act or any provision thereof, to any other urban area included within the limits of the Municipal Corporation of Delhi or exclude any area from the operation of this Act or any provision thereof.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(a) "basic rent", in relation to premises let out before the 2nd day of June, 1944, means the basic rent of such premises as determined in accordance with the provisions of the Second Schedule;



(b) "Controller" means a Controller appointed under sub-section (1) of section 35 and includes an additional Controller appointed under sub-section (2) of that section;

(c) "fair rate" means the fair rate fixed under section 31 and includes the rate as revised under section 32;

(d) "hotel or lodging house" means a building or part of a building where lodging with or without board or other services is provided for a monetary consideration;

(e) "landlord" means a person who, for the time being is receiving, or is entitled to receive, the rent of any premises, whether on his own account or on account of or on behalf of, or for the benefit of, any other person or as a trustee, guardian or receiver for any other person or who would so receive the rent or be entitled to receive the rent, if the premises were let to a tenant;

(f) "lawful increase" means an increase in rent permitted under the provisions of this Act;

(g) "manager of a hotel" includes any person in charge of the management of the hotel;

(h) "owner of a lodging house" means a person who receives or is entitled to receive whether on his own account or on behalf of himself and others or as an agent or a trustee for any other person, any monetary consideration from any person on account of board, lodging or other services provided in the lodging house;

(i) "premises" means any building or part of a building which is, or is intended to be, let separately for use as a residence or for commercial use or for any other purpose, and includes—

(i) the garden, grounds and outhouses, if any, appertaining to such building or part of the building;

(ii) any furniture supplied by the landlord for use in such building or part of the building;

but does not include a room in a hotel or lodging house;

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

(k) "standard rent", in relation to any premises, means the standard rent referred to in section 6 or where the standard rent has been increased under section 7, such increased rent;

(l) "tenant" means any person by whom or on whose account or behalf the rent of any premises is, or but for a special contract would be, payable and includes a sub-tenant and also any person continuing in possession after the termination of his tenancy but shall not include any person against whom any order or decree for eviction has been made;

(m) "urban area" has the same meaning as in the Delhi Municipal Corporation Act, 1957.

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Act not to apply to certain premises.

3. Nothing in this Act shall apply—

(a) to any premises belonging to the Government; or

(b) to any tenancy or other like relationship created by a grant from the Government in respect of the premises taken on lease, or requisitioned, by the Government.

## CHAPTER II

### PROVISIONS REGARDING RENT

Rent in excess of standard rent not recoverable.

4. (1) Except where rent is liable to periodical increase by virtue of an agreement entered into before the 1st day of January, 1939, no tenant shall, notwithstanding any agreement to the contrary, be liable to pay to his landlord for the occupation of any premises any amount in excess of the standard rent of the premises, unless such amount is a lawful increase of the standard rent in accordance with the provisions of this Act.

(2) Subject to the provisions of sub-section (1), any agreement for the payment of rent in excess of the standard rent shall be construed as if it were an agreement for the payment of the standard rent only.

Unlawful charges not to be claimed or received.

5. (1) Subject to the provisions of this Act, no person shall claim or receive any rent in excess of the standard rent, notwithstanding any agreement to the contrary.

(2) No person shall, in consideration of the grant, renewal or continuance of a tenancy or sub-tenancy of any premises,—

(a) claim or receive the payment of any sum as premium or *pugree* or claim or receive any consideration whatsoever, in cash or in kind, in addition to the rent; or

↓ Added by Act 4 of 1963, S. 2 (Retrospective)

(b) except with the previous permission of the Controller, claim or receive the payment of any sum exceeding one month's rent of such premises as rent in advance.

(3) It shall not be lawful for the tenant or any other person acting or purporting to act on behalf of the tenant or a sub-tenant to claim or receive any payment in consideration of the relinquishment, transfer or assignment of his tenancy or sub-tenancy, as the case may be, of any premises.

(4) Nothing in this section shall apply—

(a) to any payment made in pursuance of an agreement entered into before the 1st day of January, 1939; or

(b) to any payment made under an agreement by any person to a landlord for the purpose of financing the construction of the whole or part of any premises on the land belonging to, or taken on lease by, the landlord, if one of the conditions of the agreement is that the landlord is to let to that person the whole or part of the premises when completed for the use of that person or any member of his family:

Provided that such payment does not exceed the amount of agreed rent for a period of five years of the whole or part of the premises to be let to such person.

*Explanation.*—For the purposes of clause (b) of this sub-section, a "member of the family" of a person means, in the case of an undivided Hindu family, any member of the family of that person and in the case of any other family, the husband, wife, son, daughter, father, mother, brother, sister or any other relative dependent on that person.

6. (1) Subject to the provisions of sub-section (2), "standard rent", <sup>Standard</sup> in relation to any premises means—

(A) in the case of residential premises—

(1) where such premises have been let out at any time before the 2nd day of June, 1944,—

(a) if the basic rent of such premises per annum does not exceed six hundred rupees, the basic rent; or

(b) if the basic rent of such premises per annum exceeds six hundred rupees, the basic rent together with ten per cent. of such basic rent;

(2) where such premises have been let out at any time on or after the 2nd day of June, 1944,—

(a) in any case where the rent of such premises has been fixed under the Delhi and Ajmer-Merwara Rent Control Act, 1947, or the Delhi and Ajmer Rent Control Act, 1952,— 19 of 1947.  
38 of 1952.

(i) if such rent per annum does not exceed twelve hundred rupees, the rent so fixed; or

(ii) if such rent per annum exceeds twelve hundred rupees, the rent so fixed together with ten per cent. of such rent;

(b) in any other case, the rent calculated on the basis of seven and one-half per cent. per annum of the aggregate amount of the reasonable cost of construction and the market price of the land comprised in the premises on the date of the commencement of the construction:

Provided that where the rent so calculated exceeds twelve hundred rupees per annum, this clause shall have effect as if for the words "seven and one-half per cent.", the words "eight and one-fourth per cent." had been substituted,

(B) in the case of premises other than residential premises—

(1) where the premises have been let out at any time before the 2nd day of June, 1944, the basic rent of such premises together with ten per cent. of such basic rent:

Provided that where the rent so calculated exceeds twelve hundred rupees per annum, this clause shall have effect as if for the words "ten per cent.", the words "fifteen per cent." had been substituted;

(2) where the premises have been let out at any time on or after the 2nd day of June, 1944,—

(a) in any case where the rent of such premises has been fixed under the Delhi and Ajmer-Merwara Rent Control Act, 1947 or the Delhi and Ajmer Rent Control Act, 1952,— 19 of 1947.  
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(i) if such rent per annum does not exceed twelve hundred rupees, the rent so fixed; or

(ii) if such rent per annum exceeds twelve hundred rupees, the rent so fixed together with fifteen per cent. of such rent;

(b) in any other case, the rent calculated on the basis of seven and one-half per cent. per annum of the aggregate amount of the reasonable cost of construction and the market price of the land comprised in the premises on the date of the commencement of the construction:

Provided that where the rent so calculated exceeds twelve hundred rupees per annum, this clause shall have effect as if for the words "seven and one-half per cent.", the words "eight and five-eighth per cent." had been substituted.

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

(a) in the case of any premises, whether residential or not, constructed on or after the 2nd day of June, 1951, but before the 9th day of June, 1955, the annual rent calculated with reference to the rent at which the premises were let for the month of March, 1958, or if they were not so let, with reference to the rent at which they were last let out, shall be deemed to be the standard rent for a period of seven years from the date of the completion of the construction of such premises; and

(b) in the case of any premises, whether residential or not, constructed on or after the 9th day of June, 1955, including premises constructed after the commencement of this Act, the annual rent calculated with reference to the rent agreed upon between the landlord and the tenant when such premises were first let out shall be deemed to be the standard rent for a period of five years from the date of such letting out.

(3) For the purposes of this section, residential premises include premises let out for the purposes of a public hospital, an educational institution, a public library, reading room or an orphanage.

7. (1) Where a landlord has at any time, before the commencement of this Act with or without the approval of the tenant or after the commencement of this Act with the written approval of the tenant or of the Controller, incurred expenditure for any improvement, addition or structural alteration in the premises, not being expenditure on decoration or tenantable repairs necessary or usual for such premises, and the cost of that improvement, addition or alteration has not been taken into account in determining the rent of the premises, the landlord may lawfully increase the standard rent per year by an amount not exceeding seven and one-half per cent. of such cost.

Lawful increase of standard rent in certain cases and recovery of other charges.

(2) Where a landlord pays in respect of the premises any charge for electricity or water consumed in the premises or any other charge levied by a local authority having jurisdiction in the area which is ordinarily payable by the tenant, he may recover from the tenant the

amount so paid by him; but the landlord shall not recover from the tenant whether by means of an increase in rent or otherwise the amount of any tax on building or land imposed in respect of the premises occupied by the tenant:

Provided that nothing in this sub-section shall affect the liability of any tenant under an agreement entered into before the 1st day of January, 1952, whether express or implied, to pay from time to time the amount of any such tax as aforesaid.

Notice of  
increase of  
rent

8. (1) Where a landlord wishes to increase the rent of any premises, he shall give the tenant notice of his intention to make the increase and in so far as such increase is lawful under this Act, it shall be due and recoverable only in respect of the period of the tenancy after the expiry of thirty days from the date on which the notice is given.

(2) Every notice under sub-section (1) shall be in writing signed by or on behalf of the landlord and given in the manner provided in section 106 of the Transfer of Property Act, 1882.

4 of 1882.

Controller  
to fix stan-  
dard rent,  
etc.

9. (1) The Controller shall, on an application made to him in this behalf, either by the landlord or by the tenant, in the prescribed manner, fix in respect of any premises—

(i) the standard rent referred to in section 6; or

(ii) the increase, if any, referred to in section 7.

(2) In fixing the standard rent of any premises or the lawful increase thereof, the Controller shall fix an amount which appears to him to be reasonable having regard to the provisions of section 6 or section 7 and the circumstances of the case.

(3) In fixing the standard rent of any premises part of which has been lawfully sub-let, the Controller may also fix the standard rent of the part sub-let.

(4) Where for any reason it is not possible to determine the standard rent of any premises on the principles set forth under section 6, the Controller may fix such rent as would be reasonable having regard to the situation, locality and condition of the premises and the amenities provided therein and where there are similar or nearly similar premises in the locality, having regard also to the standard rent payable in respect of such premises.

(5) The standard rent shall in all cases be fixed for a tenancy of twelve months:

Provided that where any premises are let or re-let for a period of less than twelve months, the standard rent for such tenancy shall bear the same proportion to the annual standard rent as the period of tenancy bears to twelve months.

(6) In fixing the standard rent of any premises under this section, the Controller shall fix the standard rent thereof in an unfurnished state and may also determine an additional charge to be payable on account of any fittings or furniture supplied by the landlord and it shall be lawful for the landlord to recover such additional charge from the tenant.

(7) In fixing the standard rent of any premises under this section, the Controller shall specify a date from which the standard rent so fixed shall be deemed to have effect:

Provided that in no case the date so specified shall be earlier than one year prior to the date of the filing of the application for the fixation of the standard rent.

10. If an application for fixing the standard rent or for determining the lawful increase of such rent is made under section 9, the Controller shall, as expeditiously as possible, make an order specifying the amount of the rent or the lawful increase to be paid by the tenant to the landlord pending final decision on the application and shall appoint the date from which the rent or lawful increase so specified shall be deemed to have effect.

Fixation of interim rent.

11. No collector of rent or middleman shall be liable to pay to his principal, in respect of any premises, any sum by way of rental charges which exceeds the amount which he is entitled under this Act to realise from the tenant or tenants of the premises.

Limitation of liability of middlemen.

12. Any landlord or tenant may file an application to the Controller for fixing the standard rent of the premises or for determining the lawful increase of such rent,—

Limitation for application for fixation of standard rent.

(a) in the case of any premises which were let, or in which the cause of action for lawful increase of rent arose, before the commencement of this Act, within two years from such commencement;

(b) in the case of any premises let after the commencement of this Act,—

(i) where the application is made by the landlord, within two years from the date on which the premises were let to the tenant against whom the application is made;

(ii) where the application is made by the tenant, within two years from the date on which the premises were let to that tenant; and

(c) in the case of any premises in which the cause of action for lawful increase of rent arises after the commencement of this Act, within two years from the date on which the cause of action arises:

Provided that the Controller may entertain the application after the expiry of the said period of two years, if he is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

Refund of rent, premium, etc., not recoverable under the Act.

13. Where any sum or other consideration has been paid, whether before or after the commencement of this Act, by or on behalf of a tenant to a landlord, in contravention of any of the provisions of this Act or of the Delhi and Ajmer Rent Control Act, 1952, the Controller may, on an application made to him within a period of one year from the date of such payment, order the landlord to refund such sum or the value of such consideration to the tenant or order adjustment of such sum or the value of such consideration against the rent payable by the tenant.

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### CHAPTER III

#### CONTROL OF EVICTION OF TENANTS

Protection of tenant against eviction.

14. (1) Notwithstanding anything to the contrary contained in any other law or contract, no order or decree for the recovery of possession of any premises shall be made by any court or Controller in favour of the landlord against a tenant:

Provided that the Controller may, on an application made to him in the prescribed manner, make an order for the recovery of possession of the premises on one or more of the following grounds only, namely:—

(a) that the tenant has neither paid nor tendered the whole of the arrears of the rent legally recoverable from him within two months of the date on which a notice of demand for the arrears



4 of 1882.

of rent has been served on him by the landlord in the manner provided in section 106 of the Transfer of Property Act, 1882;

(b) that the tenant has, on or after the 9th day of June, 1952, sub-let, assigned or otherwise parted with the possession of the whole or any part of the premises without obtaining the consent in writing of the landlord;

(c) that the tenant has used the premises for a purpose other than that for which they were let—

(i) if the premises have been let on or after the 9th day of June, 1952, without obtaining the consent in writing of the landlord; or

(ii) if the premises have been let before the said date without obtaining his consent;

(d) that the premises were let for use as a residence and neither the tenant nor any member of his family has been residing therein for a period of six months immediately before the date of the filing of the application for the recovery of possession thereof;

(e) that the premises let for residential purposes are required *bona fide* by the landlord for occupation as a residence for himself or for any member of his family dependent on him, if he is the owner thereof, or for any person for whose benefit the premises are held and that the landlord or such person has no other reasonably suitable residential accommodation;

*Explanation.*—For the purposes of this clause, “premises let for residential purposes” include any premises which having been let for use as a residence are, without the consent of the landlord, used incidentally for commercial or other purposes;

(f) that the premises have become unsafe or unfit for human habitation and are required *bona fide* by the landlord for carrying out repairs which cannot be carried out without the premises being vacated;

(g) that the premises are required *bona fide* by the landlord for the purpose of building or re-building or making thereto any substantial additions or alterations and that such building or re-building or addition or alteration cannot be carried out without the premises being vacated;

(h) that the tenant has, whether before or after the commencement of this Act, built, acquired vacant possession of, or been allotted, a residence;

(i) that the premises were let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and that the tenant has ceased, whether before or after the commencement of this Act, to be in such service or employment;

(j) that the tenant has, whether before or after the commencement of this Act, caused or permitted to be caused substantial damage to the premises;

(k) that the tenant has, notwithstanding previous notice, used or dealt with the premises in a manner contrary to any condition imposed on the landlord by the Government or the Delhi Development Authority or the Municipal Corporation of Delhi while giving him a lease of the land on which the premises are situate;

(l) that the landlord requires the premises in order to carry out any building work at the instance of the Government or the Delhi Development Authority or the Municipal Corporation of Delhi in pursuance of any improvement scheme or development scheme and that such building work cannot be carried out without the premises being vacated.

(2) No order for the recovery of possession of any premises shall be made on the ground specified in clause (a) of the proviso to sub-section (1), if the tenant makes payment or deposit as required by section 15:

Provided that no tenant shall be entitled to the benefit under this sub-section, if, having obtained such benefit once in respect of any premises, he again makes a default in the payment of rent of those premises for three consecutive months.

(3) No order for the recovery of possession in any proceeding under sub-section (1) shall be binding on any sub-tenant referred to in section 17 who has given notice of his sub-tenancy to the landlord under the provisions of that section, unless the sub-tenant is made a party to the proceeding and the order for eviction is made binding on him.

(4) For the purposes of clause (b) of the proviso to sub-section (1), any premises which have been let for being used for the purposes of business or profession shall be deemed to have been sub-let by the tenant, if the Controller is satisfied that the tenant without obtaining the consent in writing of the landlord has, after the 16th day of August, 1958, allowed any person to occupy the whole

or any part of the premises ostensibly on the ground that such person is a partner of the tenant in the business or profession but really for the purpose of sub-letting such premises to that person.

(5) No application for the recovery of possession of any premises shall lie under sub-section (1) on the ground specified in clause (c) of the proviso thereto, unless the landlord has given to the tenant a notice in the prescribed manner requiring him to stop the misuse of the premises and the tenant has refused or failed to comply with such requirement within one month of the date of service of the notice, and no order for eviction against the tenant shall be made in such a case, unless the Controller is satisfied that the misuse of the premises is of such a nature that it is a public nuisance or that it causes damage to the premises or is otherwise detrimental to the interests of the landlord.

(6) Where a landlord has acquired any premises by transfer, no application for the recovery of possession of such premises shall lie under sub-section (1) on the ground specified in clause (e) of the proviso thereto, unless a period of five years has elapsed from the date of the acquisition.

(7) Where an order for the recovery of possession of any premises is made on the ground specified in clause (e) of the proviso to sub-section (1), the landlord shall not be entitled to obtain possession thereof before the expiration of a period of six months from the date of the order.

(8) No order for the recovery of possession of any premises shall be made on the ground specified in clause (g) of the proviso to sub-section (1), unless the Controller is satisfied that the proposed reconstruction will not radically alter the purpose for which the premises were let or that such radical alteration is in the public interest, and that the plans and estimates of such reconstruction have been properly prepared and that necessary funds for the purpose are available with the landlord.

(9) No order for the recovery of possession of any premises shall be made on the ground specified in clause (i) of the proviso to sub-section (1), if the Controller is of opinion that there is any *bona fide* dispute as to whether the tenant has ceased to be in the service or employment of the landlord.

(10) No order for the recovery of possession of any premises shall be made on the ground specified in clause (j) of the proviso to sub-section (1), if the tenant, within such time as may be specified in this behalf by the Controller, carries out repairs to the damage

caused to the satisfaction of the Controller or pays to the landlord such amount by way of compensation as the Controller may direct.

(11) No order for the recovery of possession of any premises shall be made on the ground specified in clause (k) of the proviso to sub-section (1), if the tenant, within such time as may be specified in this behalf by the Controller, complies with the condition imposed on the landlord by any of the authorities referred to in that clause or pays to that authority such amount by way of compensation as the Controller may direct.

When a tenant can get benefit of protection against eviction.

15. (1) In every proceeding for the recovery of possession of any premises on the ground specified in clause (a) of the proviso to sub-section (1) of section 14, the Controller shall, after giving the parties an opportunity of being heard, make an order directing the tenant to pay to the landlord or deposit with the Controller within one month of the date of the order, an amount calculated at the rate of rent at which it was last paid for the period for which the arrears of the rent were legally recoverable from the tenant including the period subsequent thereto up to the end of the month previous to that in which payment or deposit is made and to continue to pay or deposit, month by month, by the fifteenth of each succeeding month, a sum equivalent to the rent at that rate.

(2) If, in any proceeding for the recovery of possession of any premises on any ground other than that referred to in sub-section (1), the tenant contests the claim for eviction, the landlord may, at any stage of the proceeding, make an application to the Controller for an order on the tenant to pay to the landlord the amount of rent legally recoverable from the tenant and the Controller may, after giving the parties an opportunity of being heard, make an order in accordance with the provisions of the said sub-section.

(3) If, in any proceeding referred to in sub-section (1) or sub-section (2), there is any dispute as to the amount of rent payable by the tenant, the Controller shall, within fifteen days of the date of the first hearing of the proceeding, fix an interim rent in relation to the premises to be paid or deposited in accordance with the provisions of sub-section (1) or sub-section (2), as the case may be, until the standard rent in relation thereto is fixed having regard to the provisions of this Act, and the amount of arrears, if any, calculated on the basis of the standard rent shall be paid or deposited by the tenant within one month of the date on which the standard rent is fixed or such further time as the Controller may allow in this behalf.

(4) If, in any proceeding referred to in sub-section (1) or sub-section (2), there is any dispute as to the person or persons to whom the rent is payable, the Controller may direct the tenant to deposit

with the Controller the amount payable by him under sub-section (1) or sub-section (2) or sub-section (3), as the case may be, and in such a case, no person shall be entitled to withdraw the amount in deposit until the Controller decides the dispute and makes an order for payment of the same.

(5) If the Controller is satisfied that any dispute referred to in sub-section (4) has been raised by a tenant for reasons which are false or frivolous, the Controller may order the defence against eviction to be struck out and proceed with the hearing of the application.

(6) If a tenant makes payment or deposit as required by sub-section (1) or sub-section (3), no order shall be made for the recovery of possession on the ground of default in the payment of rent by the tenant, but the Controller may allow such costs as he may deem fit to the landlord.

(7) If a tenant fails to make payment or deposit as required by this section, the Controller may order the defence against eviction to be struck out and proceed with the hearing of the application.

16. (1) Where at any time before the 9th day of June, 1952, a tenant has sub-let the whole or any part of the premises and the sub-tenant is, at the commencement of this Act, in occupation of such premises, then, notwithstanding that the consent of the landlord was not obtained for such sub-letting, the premises shall be deemed to have been lawfully sub-let.

Restrictions on sub-letting.

(2) No premises which have been sub-let either in whole or in part on or after the 9th day of June, 1952, without obtaining the consent in writing of the landlord, shall be deemed to have been lawfully sub-let.

(3) After the commencement of this Act, no tenant shall, without the previous consent in writing of the landlord,—

(a) sub-let the whole or any part of the premises held by him as a tenant; or

(b) transfer or assign his rights in the tenancy or in any part thereof.

(4) No landlord shall claim or receive the payment of any sum as premium or *pugree* or claim or receive any consideration whatsoever in cash or in kind for giving his consent to the sub-letting of the whole or any part of the premises held by the tenant.

17. (1) Where, after the commencement of this Act, any premises are sub-let either in whole or in part by the tenant with the previous consent in writing of the landlord, the tenant or the sub-tenant to whom the premises are sub-let may, in the prescribed manner, give

Notice of creation and termination of sub-tenancy.

notice to the landlord of the creation of the sub-tenancy within one month of the date of such sub-letting and notify the termination of such sub-tenancy within one month of such termination.

(2) Where, before the commencement of this Act, any premises have been lawfully sub-let either in whole or in part by the tenant, the tenant or the sub-tenant to whom the premises have been sub-let may, in the prescribed manner, give notice to the landlord of the creation of the sub-tenancy within six months of the commencement of this Act, and notify the termination of such sub-tenancy within one month of such termination.

(3) Where in any case mentioned in sub-section (2), the landlord contests that the premises were not lawfully sub-let, and an application is made to the Controller in this behalf, either by the landlord or by the sub-tenant, within two months of the date of the receipt of the notice of sub-letting by the landlord or the issue of the notice by the tenant or the sub-tenant, as the case may be, the Controller shall decide the dispute.

Sub-tenant to be tenant in certain cases.

18. (1) Where an order for eviction in respect of any premises is made under section 14 against a tenant but not against a sub-tenant referred to in section 17 and a notice of the sub-tenancy has been given to the landlord, the sub-tenant shall, with effect from the date of the order, be deemed to become a tenant holding directly under the landlord in respect of the premises in his occupation on the same terms and conditions on which the tenant would have held from the landlord, if the tenancy had continued.

(2) Where, before the commencement of this Act, the interest of a tenant in respect of any premises has been determined without determining the interest of any sub-tenant to whom the premises either in whole or in part had been lawfully sub-let, the sub-tenant shall, with effect from the date of the commencement of this Act, be deemed to have become a tenant holding directly under the landlord on the same terms and conditions on which the tenant would have held from the landlord, if the tenancy had continued.

Recovery of possession for occupation and re-entry.

19. (1) Where a landlord recovers possession of any premises from the tenant in pursuance of an order made under clause (e) of the proviso to sub-section (1) of section 14, the landlord shall not, except with the permission of the Controller obtained in the prescribed manner, re-let the whole or any part of the premises within three years from the date of obtaining such possession, and in granting such permission, the Controller may direct the landlord to put such evicted tenant in possession of the premises.

(2) Where a landlord recovers possession of any premises as aforesaid and the premises are not occupied by the landlord or by

the person for whose benefit the premises are held, within two months of obtaining such possession, or the premises, having been so occupied are, at any time within three years from the date of obtaining possession, re-let to any person other than the evicted tenant without obtaining the permission of the Controller under sub-section (1); or the possession of such premises is transferred to another person for reasons which do not appear to the Controller to be *bona fide*, the Controller may, on an application made to him in this behalf by such evicted tenant within such time as may be prescribed, direct the landlord to put the tenant in possession of the premises or to pay him such compensation as the Controller thinks fit.

20. (1) In making any order on the grounds specified in clause (f) or clause (g) of the proviso to sub-section (1) of section 14, the Controller shall ascertain from the tenant whether he elects to be placed in occupation of the premises or part thereof from which he is to be evicted and if the tenant so elects, shall record the fact of the election in the order and specify therein the date on or before which he shall deliver possession so as to enable the landlord to commence the work of repairs or building or re-building, as the case may be.

Recovery of possession for repairs and re-building and re-entry.

(2) If the tenant delivers possession on or before the date specified in the order, the landlord shall, on the completion of the work of repairs or building or re-building place the tenant in occupation of the premises or part thereof.

(3) If, after the tenant has delivered possession on or before the date specified in the order, the landlord fails to commence the work of repairs or building or re-building within one month of the specified date or fails to complete the work in a reasonable time or having completed the work, fails to place the tenant in occupation of the premises in accordance with sub-section (2), the Controller may, on an application made to him in this behalf by the tenant within such time as may be prescribed, order the landlord to place the tenant in occupation of the premises or part thereof or to pay to the tenant such compensation as the Controller thinks fit.

21. Where a landlord does not require the whole or any part of any premises for a particular period and the landlord, after obtaining the permission of the Controller in the prescribed manner, lets the whole of the premises or part thereof as a residence for such period as may be agreed to in writing between the landlord and the tenant and the tenant does not on the expiry of the said period vacate such premises, then notwithstanding anything contained in section 14 or in any other law, the Controller may, on an application made to

Recovery of possession in case of tenancies for limited period.

him in this behalf by the landlord within such time as may be prescribed, place the landlord in vacant possession of the premises or part thereof by evicting the tenant and every other person who may be in occupation of such premises.

Special provision for recovery of possession in certain cases.

22. Where the landlord in respect of any premises is any company or other body corporate or any local authority or any public institution and the premises are required for the use of employees of such landlord or in the case of a public institution, for the furtherance of its activities, then, notwithstanding anything contained in section 14 or in any other law, the Controller may, on an application made to him in this behalf by such landlord, place the landlord in vacant possession of such premises by evicting the tenant and every other person who may be in occupation thereof, if the Controller is satisfied—

(a) that the tenant to whom such premises were let for use as a residence at a time when he was in the service or employment of the landlord, has ceased to be in such service or employment; or

(b) that the tenant has acted in contravention of the terms, express or implied, under which he was authorised to occupy such premises; or

(c) that any other person is in unauthorised occupation of such premises; or

(d) that the premises are required *bona fide* by the public institution for the furtherance of its activities.

*Explanation.*—For the purposes of this section, “public institution” includes any educational institution, library, hospital and charitable dispensary.

Permission to construct additional structures.

23. Where the landlord proposes to make any improvement in, or construct any additional structure on, any building which has been let to a tenant and the tenant refuses to allow the landlord to make such improvement or construct such additional structure and the Controller, on an application made to him in this behalf by the landlord, is satisfied that the landlord is ready and willing to commence the work and that such work will not cause any undue hardship to the tenant, the Controller may permit the landlord to do such work and may make such other order as he thinks fit in the circumstances of the case.

Special provision regarding vacant building sites.

24. Notwithstanding anything contained in section 14, where any premises which have been let comprise vacant land upon which it is permissible under the building regulations or municipal bye-laws, for the time being in force, to erect any building, whether



for use as a residence or for any other purpose and the landlord proposing to erect such building is unable to obtain possession of the land from the tenant by agreement with him and the Controller, on an application made to him in this behalf by the landlord, is satisfied that the landlord is ready and willing to commence the work and that the severance of the vacant land from the rest of the premises will not cause undue hardship to the tenant, the Controller may—

- (a) direct such severance;
- (b) place the landlord in possession of the vacant land;
- (c) determine the rent payable by the tenant in respect of the rest of the premises; and
- (d) make such other order as he thinks fit in the circumstances of the case.

25. Notwithstanding anything contained in any other law, where the interest of a tenant in any premises is determined for any reason whatsoever and any order is made by the Controller under this Act for the recovery of possession of such premises, the order shall, subject to the provisions of section 18, be binding on all persons who may be in occupation of the premises and vacant possession thereof shall be given to the landlord by evicting all such persons therefrom:

Vacant  
possession  
to landlord.

Provided that nothing in this section shall apply to any person who has an independent title to such premises.

#### CHAPTER IV

##### DEPOSIT OF RENT

26. (1) Every tenant shall pay rent within the time fixed by contract or in the absence of such contract, by the fifteenth day of the month next following the month for which it is payable.

Receipt to  
be given  
for rent  
paid.

(2) Every tenant who makes a payment of rent to his landlord shall be entitled to obtain forthwith from the landlord or his authorised agent a written receipt for the amount paid to him, signed by the landlord or his authorised agent.

(3) If the landlord or his authorised agent refuses or neglects to deliver to the tenant a receipt referred to in sub-section (2), the Controller may, on an application made to him in this behalf by the tenant within two months from the date of payment and after hearing the landlord or his authorised agent, by order direct the landlord or his authorised agent to pay to the tenant, by way of damages, such sum not exceeding double the amount of rent paid by the tenant and

the costs of the application and shall also grant a certificate to the tenant in respect of the rent paid.

Deposit of  
rent by the  
tenant.

27. (1) Where the landlord does not accept any rent tendered by the tenant within the time referred to in section 26 or refuses or neglects to deliver a receipt referred to therein or where there is a *bona fide* doubt as to the person or persons to whom the rent is payable, the tenant may deposit such rent with the Controller in the prescribed manner.

(2) The deposit shall be accompanied by an application by the tenant containing the following particulars, namely:—

- (a) the premises for which the rent is deposited with a description sufficient for identifying the premises;
- (b) the period for which the rent is deposited;
- (c) the name and address of the landlord or the person or persons claiming to be entitled to such rent;
- (d) the reasons and circumstances for which the application for depositing the rent is made;
- (e) such other particulars as may be prescribed.

(3) On such deposit of the rent being made, the Controller shall send in the prescribed manner a copy or copies of the application to the landlord or persons claiming to be entitled to the rent with an endorsement of the date of the deposit.

(4) If an application is made for the withdrawal of any deposit of rent, the Controller shall, if satisfied that the applicant is the person entitled to receive the rent deposited, order the amount of the rent to be paid to him in the manner prescribed:

Provided that no order for payment of any deposit of rent shall be made by the Controller under this sub-section without giving all persons named by the tenant in his application under sub-section (2) as claiming to be entitled to payment of such rent an opportunity of being heard and such order shall be without prejudice to the rights of such persons to receive such rent being decided by a court of competent jurisdiction.

(5) If at the time of filing the application under sub-section (4), but not after the expiry of thirty days from receiving the notice of deposit, the landlord or the person or persons claiming to be entitled to the rent complains or complain to the Controller that the statements in the tenant's application of the reasons and circumstances which led him to deposit the rent are untrue, the Controller, after giving the tenant an opportunity of being heard, may levy on the

tenant a fine which may extend to an amount equal to two months' rent, if the Controller is satisfied that the said statements were materially untrue and may order that a sum out of the fine realised be paid to the landlord as compensation.

(6) The Controller may, on the complaint of the tenant and after giving an opportunity to the landlord of being heard, levy on the landlord a fine which may extend to an amount equal to two months' rent, if the Controller is satisfied that the landlord, without any reasonable cause, refused to accept rent though tendered to him within the time referred to in section 26 and may further order that a sum out of the fine realised be paid to the tenant as compensation.

28. (1) No rent deposited under section 27 shall be considered to have been validly deposited under that section, unless the deposit is made within twenty-one days of the time referred to in section 26 for payment of the rent.

Time limit for making deposit and consequences of incorrect particulars in application for deposit.

(2) No such deposit shall be considered to have been validly made, if the tenant wilfully makes any false statement in his application for depositing the rent, unless the landlord has withdrawn the amount deposited before the date of filing an application for the recovery of possession of the premises from the tenant.

(3) If the rent is deposited within the time mentioned in sub-section (1) and does not cease to be a valid deposit for the reason mentioned in sub-section (2), the deposit shall constitute payment of rent to the landlord, as if the amount deposited had been validly tendered.

29. (1) The withdrawal of rent deposited under section 27 in the manner provided therein shall not operate as an admission against the person withdrawing it of the correctness of the rate of rent, the period of default, the amount due, or of any other facts stated in the tenant's application for depositing the rent under the said section.

Saving as to acceptance of rent and forfeiture of rent in deposit.

(2) Any rent in deposit which is not withdrawn by the landlord or by the person or persons entitled to receive such rent shall be forfeited to Government by an order made by the Controller, if it is not withdrawn before the expiration of five years from the date of posting of the notice of deposit.

(3) Before passing an order of forfeiture, the Controller shall give notice to the landlord or the person or persons entitled to receive the rent in deposit by registered post at the last known address of such landlord or person or persons and shall also publish the notice in his office and in any local newspaper.

## CHAPTER V

## HOTELS AND LODGING HOUSES

Application  
of the  
Chapter.

30. The provisions of this Chapter shall apply to all hotels and lodging houses in the areas which, immediately before the 7th day of April, 1958, were included in the New Delhi Municipal Committee, Municipal Committee, Delhi and the Notified Area Committee, Civil Station, Delhi and may be applied by the Central Government, by notification in the Official Gazette, to hotels and lodging houses within the limits of such other urban area of the Municipal Corporation of Delhi as may be specified in the notification:

Provided that if the Central Government is of opinion that it would not be desirable in the public interest to make the provisions of this Chapter applicable to any class of hotels or lodging houses, it may, by notification in the Official Gazette, exempt such class of hotels or lodging houses from the operation of this Chapter.

Fixing of  
fair rate.

31. (1) Where the Controller, on a written complaint or otherwise, has reason to believe that the charges made for board or lodging or any other service provided in any hotel or lodging house are excessive, he may fix a fair rate to be charged for board, lodging or other services provided in the hotel or lodging house and in fixing such fair rate, specify separately the rate for lodging, board or other services.

(2) In determining the fair rate under sub-section (1), the Controller shall have regard to the circumstances of the case and to the prevailing rate of charges for the same or similar accommodation, board and service, during the twelve months immediately preceding the 1st day of June, 1951, and to any general increase in the cost of living after that date.

Revision of  
fair rate.

32. On a written application from the manager of a hotel or the owner of a lodging house or otherwise, the Controller may, from time to time, revise the fair rate to be charged for board, lodging or other service in a hotel or lodging house, and fix such rate as he may deem fit having regard to any general rise or fall in the cost of living which may have occurred after the fixing of fair rate.

Charges in  
excess of  
fair rate not  
recoverable.

33. When the Controller has determined the fair rate of charges in respect of a hotel or lodging house,—

(a) the manager of the hotel or the owner of the lodging house, as the case may be, shall not charge any amount in excess of the fair rate and shall not, except with the previous written

permission of the Controller, withdraw from the lodger any concession or service allowed at the time when the Controller determined the fair rate;

(b) any agreement for the payment of any charges in excess of such fair rate shall be void in respect of such excess and shall be construed as if it were an agreement for payment of the said fair rate;

(c) any sum paid by a lodger in excess of the fair rate shall be recoverable by him at any time within a period of six months from the date of the payment from the manager of the hotel or the owner of the lodging house or his legal representatives and may, without prejudice to any other mode of recovery, be deducted by such lodger from any amount payable by him to such manager or owner.

34. Notwithstanding anything contained in this Act, the manager of a hotel or the owner of a lodging house shall be entitled to recover possession of the accommodation provided by him to a lodger on obtaining a certificate from the Controller certifying—

Recovery of possession by manager of a hotel or the owner of a lodging house.

(a) that the lodger has been guilty of conduct which is a nuisance or which causes annoyance to any adjoining or neighbouring lodger;

*Explanation.*—For the purposes of this clause, “nuisance” shall be deemed to include any act which constitutes an offence under the Suppression of Immoral Traffic in Women and Girls Act, 1956;

104 of 1956.

(b) that the accommodation is reasonably and *bona fide* required by the owner of the hotel or lodging house, as the case may be, either for his own occupation or for the occupation of any person for whose benefit the accommodation is held, or any other cause which may be deemed satisfactory to the Controller;

(c) that the lodger has failed to vacate the accommodation on the termination of the period of the agreement in respect thereof;

(d) that the lodger has done any act which is inconsistent with the purpose for which the accommodation was given to him or which is likely to affect adversely or substantially the owner's interest therein;

(e) that the lodger has failed to pay the rent due from him.

## CHAPTER VI

APPOINTMENT OF CONTROLLERS AND THEIR POWERS AND FUNCTIONS  
AND APPEALS

Appoint-  
ment of  
Controllers  
and addi-  
tional Con-  
trollers.

35. (1) The Central Government may, by notification in the Official Gazette, appoint as many Controllers as it thinks fit, and define the local limits within which, or the hotels and lodging houses in respect of which, each Controller shall exercise the powers conferred, and perform the duties imposed, on Controllers by or under this Act.

(2) The Central Government may also, by notification in the Official Gazette, appoint as many additional Controllers as it thinks fit and an additional Controller shall perform such of the functions of the Controller as may, subject to the control of the Central Government, be assigned to him in writing by the Controller and in the discharge of these functions, an additional Controller shall have and shall exercise the same powers and discharge the same duties as the Controller.

(3) A person shall not be qualified for appointment as a Controller or an additional Controller, unless he has for at least five years held a judicial office in India or has for at least seven years been practising as an advocate or a pleader in India.

Powers of  
Controller.

36. (1) The Controller may—

(a) transfer any proceeding pending before him for disposal to any additional Controller, or

(b) withdraw any proceeding pending before any additional Controller and dispose it of himself or transfer the proceeding for disposal to any other additional Controller.

(2) The Controller shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

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

(b) requiring the discovery and production of documents;

(c) issuing commissions for the examination of witnesses;

(d) any other matter which may be prescribed;

and any proceeding before the Controller shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code, and the Controller shall be deemed to be 45 of 1860.

5 of 1898.

a civil court within the meaning of section 480 and section 482 of the Code of Criminal Procedure, 1898.

(3) For the purposes of holding any inquiry or discharging any duty under this Act, the Controller may,—

(a) after giving not less than twenty-four hours' notice in writing, enter and inspect or authorise any officer subordinate to him to enter and inspect any premises at any time between sunrise and sunset; or

(b) by written order, require any person to produce for his inspection all such accounts, books or other documents relevant to the inquiry at such time and at such place as may be specified in the order.

(4) The Controller may, if he thinks fit, appoint one or more persons having special knowledge of the matter under consideration as an assessor or assessors to advise him in the proceeding before him.

37. (1) No order which prejudicially affects any person shall be made by the Controller under this Act without giving him a reasonable opportunity of showing cause against the order proposed to be made and until his objections, if any, and any evidence he may produce in support of the same have been considered by the Controller.

Procedure to be followed by Controller.

(2) Subject to any rules that may be made under this Act, the Controller shall, while holding an inquiry in any proceeding before him, follow as far as may be the practice and procedure of a court of small causes, including the recording of evidence.

(3) In all proceedings before him, the Controller shall consider the question of costs and award such costs to or against any party as the Controller considers reasonable.

38. (1) An appeal shall lie from every order of the Controller made under this Act to the Rent Control Tribunal (hereinafter referred to as the Tribunal) consisting of one person only to be appointed by the Central Government by notification in the Official Gazette.

Appeal to the Tribunal.

(2) An appeal under sub-section (1) shall be preferred within thirty days from the date of the order made by the Controller:

Provided that the Tribunal may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the

applicant was prevented by sufficient cause from filing the appeal in time.

(3) The Tribunal shall have all the powers vested in a court under the Code of Civil Procedure, 1908, when hearing an appeal. 5 of 1908.

(4) Without prejudice to the provisions of sub-section (3), the Tribunal may, on an application made to it or otherwise, by order transfer any proceeding pending before any Controller or additional Controller to another Controller or additional Controller and the Controller or additional Controller to whom the proceeding is so transferred may, subject to any special directions in the order of transfer, dispose of the proceeding.

(5) A person shall not be qualified for appointment to the Tribunal, unless he is, or has been, a district judge or has for at least ten years held a judicial office in India.

Second  
appeal.

39. (1) Subject to the provisions of sub-section (2), an appeal shall lie to the High Court from an order made by the Tribunal within sixty days from the date of such order:

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

(2) No appeal shall lie under sub-section (1), unless the appeal involves some substantial question of law.

Amendment  
of orders.

40. Clerical or arithmetical mistakes in any order passed by a Controller or the Tribunal or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Controller or the Tribunal on an application received in this behalf from any of the parties or otherwise.

Controller  
to exercise  
powers of  
a magistrate  
for recovery  
of fine.

41. Any fine imposed by a Controller under this Act shall be paid by the person fined within such time as may be allowed by the Controller and the Controller may, for good and sufficient reason, extend the time, and in default of such payment, the amount shall be recoverable as a fine under the provisions of the Code of Criminal Procedure, 1898, and the Controller shall be 5 of 1898. deemed to be a magistrate under the said Code for the purposes of such recovery.

Controller  
to exercise  
powers of  
civil court  
for execution  
of other  
orders.

42. Save as otherwise provided in section 41, an order made by the Controller or an order passed on appeal under this Act shall be executable by the Controller as a decree of a civil court and for this purpose, the Controller shall have all the powers of a civil court.



43. Save as otherwise expressly provided in this Act, every order made by the Controller or an order passed on appeal under this Act shall be final and shall not be called in question in any original suit, application or execution proceeding.

## CHAPTER VII

### PROVISIONS REGARDING SPECIAL OBLIGATIONS OF LANDLORDS AND PENALTIES

44. (1) Every landlord shall be bound to keep the premises in good and tenantable repairs.

Landlord's  
duty to keep  
the premises  
in good  
repair.

(2) If the landlord neglects or fails to make, within a reasonable time after notice in writing, any repairs which he is bound to make under sub-section (1), the tenant may make the same himself and deduct the expenses of such repairs from the rent or otherwise recover them from the landlord:

Provided that the amount so deducted or recoverable in any year shall not exceed one-twelfth of the rent payable by the tenant for that year.

(3) Where any repairs without which the premises are not habitable or useable except with undue inconvenience are to be made and the landlord neglects or fails to make them after notice in writing, the tenant may apply to the Controller for permission to make such repairs himself and may submit to the Controller an estimate of the cost of such repairs, and, thereupon, the Controller may, after giving the landlord an opportunity of being heard and after considering such estimate of the cost and making such inquiries as he may consider necessary, by an order in writing, permit the tenant to make such repairs at such cost as may be specified in the order and it shall thereafter be lawful for the tenant to make such repairs himself and to deduct the cost thereof, which shall in no case exceed the amount so specified, from the rent or otherwise recover it from the landlord:

Provided that the amount so deducted or recoverable in any year shall not exceed one-half of the rent payable by the tenant for that year:

Provided further that if any repairs not covered by the said amount are necessary in the opinion of the Controller, and the tenant agrees to bear the excess cost himself, the Controller may permit the tenant to make such repairs.

4 Sub. by K. et al 20 of 1960, 1534 Sec. 2 (w.e.f. 26-12-60)

Cutting off or withholding essential supply or service.

45. (1) No landlord either himself or through any person purporting to act on his behalf shall without just and sufficient cause cut off or withhold any essential supply or service enjoyed by the tenant in respect of the premises let to him.

(2) If a landlord contravenes the provisions of sub-section (1), the tenant may make an application to the Controller complaining of such contravention.

(3) If the Controller is satisfied that the essential supply or service was cut off or withheld by the landlord with a view to compel the tenant to vacate the premises or to pay an enhanced rent, the Controller may pass an order directing the landlord to restore the amenities immediately, pending the inquiry referred to in sub-section (4).

Explanation.—An interim order may be passed under this sub-section without giving notice to the landlord.

(4) If the Controller on inquiry finds that the essential supply or service enjoyed by the tenant in respect of the premises was cut off or withheld by the landlord without just and sufficient cause, he shall make an order directing the landlord to restore such supply or service.

(5) The Controller may in his discretion direct that compensation not exceeding fifty rupees—

(a) be paid to the landlord by the tenant, if the application under sub-section (2) was made frivolously or vexatiously;

(b) be paid to the tenant by the landlord, if the landlord had cut off or withheld the supply or service without just and sufficient cause.

Explanation I.—In this section, "essential supply or service" includes supply of water, electricity, lights in passages and on staircases, conservancy and sanitary services.

Explanation II.—For the purposes of this section, withholding any essential supply or service shall include acts or omissions attributable to the landlord on account of which the essential supply or service is cut off by the local authority or any other competent authority.

Landlord's duty to give notice of new construction to Government.

46. Whenever, after the commencement of this Act, any premises are constructed, the landlord shall, within thirty days of the completion of such construction, give intimation thereof in writing to the ~~Estate Officer to the Government of India~~ or to such other officer as may be specified in this behalf by the Government.

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Director of Estates

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of sub. by Act 58 of 1960, s. 3 sub. 2 (w.e.f. 26.12.60)

of 1958]

Delhi Rent Control

569

47. (1) The provisions of this section shall apply only in relation to premises in the areas which, immediately before the 7th day of April, 1958, were included in the New Delhi Municipal Committee and which are, or are intended to be, let for use as a residence. <sup>Leases of vacant premises to Government.</sup>

(2) Whenever any premises the standard rent of which is not less than two thousand and four hundred rupees per year becomes vacant either by the landlord ceasing to occupy the premises or by the termination of a tenancy or by the eviction of a tenant or by the release of the premises from requisition or otherwise,—

(a) the landlord shall, within seven days of the premises becoming vacant, give intimation thereof in writing to the ~~Estate Officer to the Government of India~~, <sup>(Director of Estates)</sup>

(b) whether or not such intimation is given, the ~~Estate Officer~~ may serve on the landlord by post or otherwise a notice—

(i) informing him that the premises are required by the Government for such period as may be specified in the notice; and

(ii) requiring him, and every person claiming under him, to deliver possession of the premises forthwith to such officer or person as may be specified in the notice:

Provided that where the landlord has given the intimation required by clause (a), no notice shall be issued by the ~~Estate Officer~~ under clause (b) more than seven days after the delivery to him of the intimation: <sup>Director of Estates</sup>

Provided further that nothing in this sub-section shall apply in respect of any premises the possession of which has been obtained by the landlord on the basis of any order made on the ground set forth in clause (e) of the proviso to sub-section (1) of section 14 or in respect of any premises which have been released from requisition for the use and occupation of the landlord himself.

(3) Upon the service of a notice under clause (b) of sub-section (2), the premises shall be deemed to have been leased to the Government for the period specified in the notice, as from the date of the delivery of the intimation under clause (a) of sub-section (2) or in a case where no such intimation has been given, as from the date on which possession of the premises is delivered in pursuance of the notice, and the other terms of the lease shall be such as may be agreed upon between the Government and the landlord or in default of agreement, as may be determined by the Controller, in accordance with the provisions of this Act.

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(4) In every case where the landlord has in accordance with the provisions of sub-section (2) given intimation of any premises becoming vacant and the premises are not taken on lease by the Government under this section, the Government shall pay to the landlord a sum equal to one-fifty-second of the standard rent per year of the premises.

(5) Any premises taken on lease by the Government under this section may be put to any such use as the Government thinks fit, and in particular, the Government may permit the use of the premises for the purposes of any public institution or any foreign embassy, legation or consulate or any High Commissioner or Trade Commissioner, or as a residence by any officer in the service of the Government or of a foreign embassy, legation or consulate or of a High Commissioner or Trade Commissioner.

**Penalties.**

48. (1) If any person contravenes any of the provisions of section 5, he shall be punishable—

(a) in the case of a contravention of the provisions of sub-section (1) of section 5, with simple imprisonment for a term which may extend to three months, or with fine which may extend to a sum which exceeds the unlawful charge claimed or received under that sub-section by one thousand rupees, or with both;

(b) in the case of a contravention of the provisions of sub-section (2) or sub-section (3) of section 5, with simple imprisonment for a term which may extend to six months, or with fine which may extend to a sum which exceeds the amount or value of unlawful charge claimed or received under the said sub-section (2) or sub-section (3), as the case may be, by five thousand rupees, or with both.

(2) If any tenant sub-lets, assigns or otherwise parts with the possession of the whole or part of any premises in contravention of the provisions of clause (b) of the proviso to sub-section (1) of section 14, he shall be punishable with fine which may extend to one thousand rupees.

(3) If any landlord re-lets or transfers the whole or any part of any premises in contravention of the provisions of sub-section (1) or sub-section (2) of section 19, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

(4) If any landlord contravenes the provisions of sub-section (1) of section 45, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

(5) If any landlord fails to comply with the provisions of section 46 he shall be punishable with fine which may extend to one hundred rupees.

(6) If any person contravenes the provisions of clause (a) of sub-section (2) of section 47, or fails to comply with a requirement under clause (b) thereof, he shall be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

49. (1) No court inferior to that of a magistrate of the first class shall try any offence punishable under this Act. Cognizance  
of offences.

(2) No court shall take cognizance of an offence punishable under this Act, unless the complaint in respect of the offence has been made within three months from the date of the commission of the offence.

5 of 1898.

(3) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any magistrate of the first class to pass a sentence of fine exceeding two thousand rupees on a person convicted of an offence punishable under this Act.

## CHAPTER VIII

### MISCELLANEOUS

50. (1) Save as otherwise expressly provided in this Act, no civil court shall entertain any suit or proceeding in so far as it relates to the fixation of standard rent in relation to any premises to which this Act applies or to eviction of any tenant therefrom or to any other matter which the Controller is empowered by or under this Act to decide, and no injunction in respect of any action taken or to be taken by the Controller under this Act shall be granted by any civil court or other authority. Jurisdiction  
of civil  
courts barred  
in respect  
of certain  
matters.

(2) If, immediately before the commencement of this Act, there is any suit or proceeding pending in any civil court for the eviction of any tenant from any premises to which this Act applies and the construction of which has been completed after the 1st day of June, 1951, but before the 9th day of June, 1955, such suit or proceeding shall, on such commencement, abate.

(3) If, in pursuance of any decree or order made by a court, any tenant has been evicted after the 16th day of August, 1958, from any premises to which this Act applies and the construction of which has been completed after the 1st day of June, 1951, but before the 9th day of June, 1955; then, notwithstanding anything contained in any other law, the Controller may, on an application made to him in this behalf by such evicted tenant within six months from the date of eviction, direct the landlord to put the tenant in possession of the premises or to pay him such compensation as the Controller thinks fit.

(4) Nothing in sub-section (1) shall be construed as preventing a civil court from entertaining any suit or proceeding for the decision of any question of title to any premises to which this Act applies or any question as to the person or persons who are entitled to receive the rent of such premises.

Controllers to be public servants.

51. All Controllers and additional Controllers appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection of action taken in good faith.

52. No suit, prosecution or other legal proceeding shall lie against any Controller or additional Controller in respect of anything which is in good faith done or intended to be done in pursuance of this Act.

Amendment of the Delhi Tenants (Temporary Protection) Act, 1956.

53. For sub-section (4) of section 1 of the Delhi Tenants (Temporary Protection) Act, 1956, the following sub-section shall be substituted, namely:—

4 XXX  
97 of 1956.

“(4) It shall cease to have effect,—

(a) as respects premises other than vacant ground, on the 11th day of February, 1959;

(b) as respects premises which are vacant ground, on the 11th day of February, 1960;

except as respects things done or omitted to be done before such cesser of operation of this Act and section 6 of the General Clauses Act, 1897, shall apply upon such cesser of operation as if it had then been repealed by a Central Act.”

10 of 1897.

Saving of operation of certain enactments.

54. Nothing in this Act shall affect the provisions of the Administration of Evacuee Property Act, 1950, or the Slum Areas (Improvement and Clearance) Act, 1956, or the Delhi Tenants (Temporary Protection) Act, 1956.

31 of 1950.

96 of 1956.

97 of 1956.

*4 omitted by Act 50 of 1960, s. 24 Sch. I (no. 1 of 26.12.60)*

55. Where any decree or order for the recovery of possession of any premises to which the Delhi Tenants (Temporary Protection) Act, 1956, applies is sought to be executed on the cesser of operation of that Act in relation to those premises, the court executing the decree or order may, on the application of the person against whom the decree or order has been passed or otherwise, reopen the case and if it is satisfied that the decree or order could not have been passed if this Act had been in force on the date of the decree or order, the court may, having regard to the provisions of this Act, set aside the decree or order or pass such other order in relation thereto as it thinks fit.

Special provision regarding decrees affected by the Delhi Tenants (Temporary Protection) Act, 1956.

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

Power to make rules.

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

(a) the form and manner in which, and the period within which, an application may be made to the Controller;

(b) the form and manner in which an application for deposit or rent may be made and the particulars which it may contain;

(c) the manner in which a Controller may hold an inquiry under this Act;

(d) the powers of the civil court which may be vested in a Controller;

(e) the form and manner in which an application for appeal or transfer of proceeding may be made to the Tribunal;

(f) the manner of service of notices under this Act;

(g) any other matter which has to be, or may be, prescribed.

(3) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as possible after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

57. (1) The Delhi and Ajmer Rent Control Act, 1952, in so far as it is applicable to the Union territory of Delhi, is hereby repealed.

Repeal and saving.

(2) Notwithstanding such repeal, all suits and other proceedings under the said Act pending, at the commencement of this Act, before any court or other authority shall be continued and disposed of in accordance with the provisions of the said Act, as if the said Act had continued in force and this Act had not been passed:

Provided that in any such suit or proceeding for the fixation of standard rent or for the eviction of a tenant from any premises to which section 54 does not apply, the court or other authority shall have regard to the provisions of this Act:

Provided further that the provisions for appeal under the said Act shall continue in force in respect of suits and proceedings disposed of thereunder.

#### THE FIRST SCHEDULE

[See section 1(2)]

#### THE URBAN AREAS WITHIN THE LIMITS OF THE MUNICIPAL CORPORATION OF DELHI TO WHICH THE ACT EXTENDS

The areas which, immediately before the 7th April, 1958, were included in—

1. the Municipality of New Delhi excluding the area specified in the First Schedule to the Delhi Municipal Corporation Act, 1957;
2. the Municipal Committee, Delhi;
3. the Notified Area Committee, Civil Station, Delhi;
4. the Municipal Committee, Delhi-Shahdara;
5. the Notified Area Committee, Red Fort;
6. the Municipal Committee, West Delhi;
7. the South Delhi Municipal Committee;
8. the Notified Area Committee, Mehrauli.

66 of 1957.

#### THE SECOND SCHEDULE

[See sections 2(a) and 6(1)]

##### BASIC RENT

1. In this Schedule, "basic rent" in relation to any premises let out before the 2nd June, 1944, means the original rent of such premises referred to in paragraph 2 increased by such percentage of the original rent as is specified in paragraph 3 or paragraph 4 or paragraph 5, as the case may be.



2. "Original rent", in relation to premises referred to in paragraph 1, means—

(a) where the rent of such premises has been fixed under the New Delhi House Rent Control Order, 1939, or the Delhi Rent Control Ordinance, 1944, the rent so fixed; or

25 of 1944.

(b) in any other case,—

(i) the rent at which the premises were let on the 1st November, 1939, or

(ii) if the premises were not let on that date, the rent at which they were first let out at any time after that date but before the 2nd June, 1944.

3. Where the premises to which paragraph 2 applies are let out for the purpose of being used as a residence or for any of the purposes of a public hospital, an educational institution, a public library or reading room or an orphanage, the basic rent of the premises shall be the original rent increased by—

(a) 12-1/2 per cent. thereof, if the original rent per annum is not more than Rs. 300;

(b) 15-5/8 per cent. thereof, if the original rent per annum is more than Rs. 300 but not more than Rs. 600;

(c) 18-3/4 per cent. thereof, if the original rent per annum is more than Rs. 600 but not more than Rs. 1,200;

(d) 25 per cent. thereof, if the original rent per annum is more than Rs. 1,200.

4. Where the premises to which paragraph 2 applies are let out for any purpose other than those mentioned in paragraph 3, the basic rent of the premises shall be the original rent increased by twice the amount by which it would be increased under paragraph 3, if the premises were let for a purpose mentioned in that paragraph.

5. Where the premises to which paragraph 2 applies are used mainly as a residence and incidentally for business or profession, the basic rent of the premises shall be the mean of the rent as calculated under paragraphs 3 and 4.

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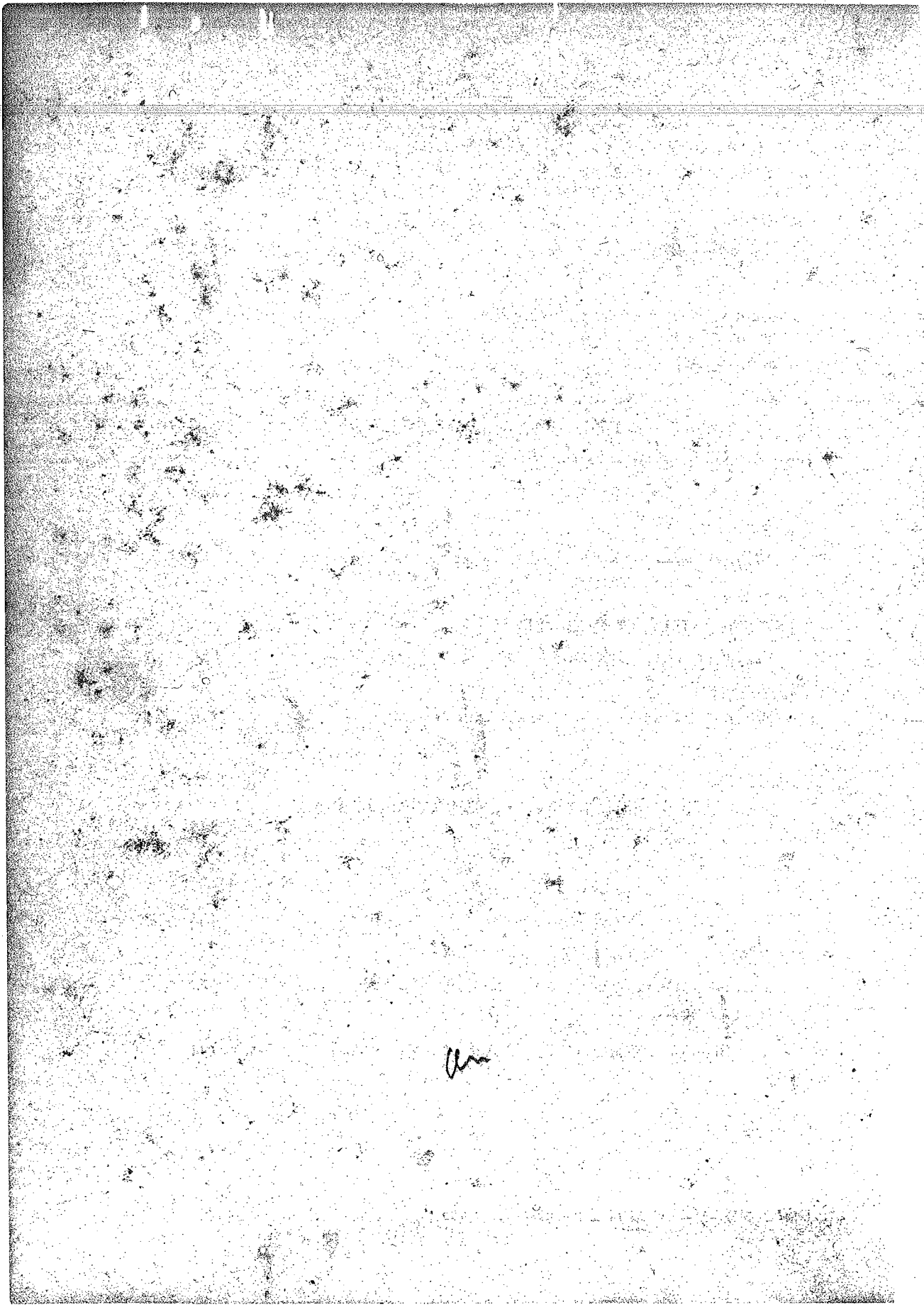
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