

Extra Ordinary Part– VI / 1991

Extra No.	Date	Department
Extra No.1	04-03-1991	Legal Department
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Extra No.3	14-03-1991	Legal Department
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Extra No.17	24-09-1991	Legal Department

Extra No. 1

REGISTERED NO. G/GNR/2.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] MONDAY, MARCH 4, 1991/PHALGUNA 13, 1912

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

P A R T VI

Act of Parliament and Ordinances Promulgated by the President

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 4th March, 1991.

No. RP/70/90/Ordi. 7 & 8/90/Research:— The following Ordinances promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 15th October, 1990 are republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 15th October, 1990/Asvina 23, 1912 (Saka)

Extra—1—1

1—1

THE RESERVE BANK OF INDIA (AMENDMENT)
ORDINANCE, 1990.

No. 7 OF 1990.

Promulgated by the President in the Forty-first Year of
the Republic of India.

An Ordinance further to amend the Reserve Bank of India Act, 1934.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

Short
title
and com-
mence-
ment.

1. (1) This Ordinance may be called the Reserve Bank of India (Amendment) Ordinance, 1990.

(2) It shall come into force at once.

Amend-
ment of
section 33
of Act 2
1934.

2. In the Reserve Bank of India Act, 1934, in section 33, in sub-section (4), for the figures and words "0.118489 grammes of fine gold per rupee", the words "a price not exceeding the international market price for the time being obtaining" shall be substituted.

R. VENKATARAMAN,
President.

V. S. RAMA DEVI,
Secy. to the Government of India.

THE FINANCE (SECOND AMENDMENT) ORDINANCE, 1990.

No. 8 of 1990.

Promulgated by the President in the Forty-first Year of the
Republic of India.

An Ordinance further to amend the Finance Act, 1990.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Finance (Second Amendment) Ordinance, 1990. Short title and commencement.

(2) It shall come into force at once.

12 of 1990. 2. In section 2 of the Finance Act, 1990 (hereinafter referred to as the principal Act),— Amendment of section 2

(a) to sub-section (5), the following proviso shall be added, namely:—

‘Provided that in the case of contractor, being a domestic company, the provisions of this sub-section shall have effect, as if for the words “eight per cent.”, the words “fifteen per cent.” had been substituted.’;

(b) to sub-section (6), the following proviso shall be added, namely:—

‘Provided that in the case of a buyer, being a domestic company, the provisions of this sub-section shall have effect, as if for the words “eight per cent.”, the words “fifteen per cent.” had been substituted.’;

(c) in sub-section (7), in the second proviso, for the words “eight per cent.”, the words “fifteen per cent.” shall be substituted

3. In the First Schedule to the principal Act,—

(a) in Part II, for the heading “Surcharge on income-tax” and the entries thereunder, the following shall be substituted, namely:— Amendment of First Schedule.

“Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of—

(a) sub-item (a) of item 1 of this Part shall be increased by a surcharge for purposes of the Union calculated at the rate of eight per cent. of such income-tax, and

(b) sub-item (a) of item 2 of this Part shall be increased by a surcharge calculated at the rate of fifteen per cent. of such income-tax.”;

(b) in Part III. in Paragraph E, under the heading “Surcharge on income-tax”, for the words “eight per cent.”, the words “fifteen per cent.” shall be substituted.

Payment of
surcharge at
enhanced
rate on
advance
tax.

4. Notwithstanding anything contained in the Income-tax Act, 1961, the 43 of 1961, surcharge payable under Part III of the First Schedule to the principal Act, as amended by this Ordinance, in respect of the instalment of advance tax paid or payable on the 15th day of September, 1990, shall be payable on or before the 15th day of November, 1990.

R. VENKATARAMAN,
President.

V. S. RAMA DEVI,
Secy. to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

NOTE.—The Finance (Amendment) Ordinance, 1990 (Ord. No. 6 of 1990) has been withdrawn by an Order of the President under article 123, dated 15th October, 1990.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] TUESDAY, MARCH 12, 1991/PHALGUNA 21, 1912

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

P A R T VI

Act of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 12th March, 1991.

No. RP/9/91/Consti.-67/Research.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 4th October, 1990/Asvina 12, 1912 (Saka).

The following Act of Parliament received the assent of the President on the 4th October, 1990 and is hereby published for general information :

2—1

VI— Extra—2—1

THE CONSTITUTION (SIXTY-SEVENTH AMENDMENT) ACT, 1990

[4th October, 1990]

AN ACT

further to amend the Constitution of India.

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

Shrot-
title.

1. This Act may be called the Constitution (Sixty-seventh Amendment) Act, 1990.

Amend-
ment of
article
356.

2. In article 356 of the Constitution, in clause (4), in the third proviso, for the words "three years and six months", the words "four years" shall be substituted.

Sd/-

V. S. RAMA DEVI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, MARCH 14, 1991/PHALGUNA 23, 1912

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

P A R T VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 14th March, 1991.

No. RP/75/90/19-90/Research.—The following Act of Parliament is re-published for general information:

GOVERNMENT OF INDIA,

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT),

New Delhi, the 29th August, 1990/Bhadra 7, 1912 (Saka).

The following Act of Parliament received the assent of the President on the 28th August, 1990 and is hereby published for general information :

3-1

VI-Extra-3-1

THE COMMISSIONS OF INQUIRY (AMENDMENT) ACT, 1990

[Act No. 19 of 1990]

[28th August, 1990]

AN ACT

further to amend the Commissions of Inquiry Act, 1952.

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

Short title.

1. This Act may be called the Commissions of Inquiry (Amendment) Act, 1990.

Amendment
section 3.

2. In section 3 of the Commissions of Inquiry Act, 1952 (hereinafter referred to as the principal Act),—

60 of 1952

(a) in sub-sections (1) and (4), for the words “the House of the People or, as the case may be, the Legislative Assembly of the State”, wherever they occur, the words “each House of Parliament or, as the case may be, the Legislature of the State” shall be substituted;

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

Amend-
ment of
section 7.

3. In section 7 of the principal Act, in sub-section (1), for the words “the House of the People or, as the case may be, the Legislative Assembly of the State”, wherever they occur, the words “each House of Parliament or, as the case may be, the Legislature of the State” shall be substituted.

Sd/—

SMT. V. S. RAMA DEVI,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,

Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] WEDNESDAY, MARCH 20, 1991/PHALGUNA 29, 1912

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

P A R T VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 20th March, 1991.

No. RP/58/90/20-90/Research.—The following Act of Parliament is re-published for general information :—

GOVERNMENT OF INDIA,

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT),

New Delhi, the 31st August, 1990/Bhadra 9, 1912 (Saka).

The following Act of Parliament received the assent of the President on the 30th August, 1990 and is hereby published for general information :

4-1

VI-Extra-4-1

THE NATIONAL COMMISSION FOR WOMEN ACT, 1990.

[Act No. 20 of 1990]

[30th August, 1990]

AN ACT

to constitute a National Commission for Women and to provide for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

Short
title,
extent
and
com-
mence-
ment.

1. (1) This Act may be called the National Commission for Women Act, 1990.

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

(3) It shall come into force on such date as the Central Government may, by notification in the *Official Gazette*, appoint.

Defini-
tions.

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

(a) "Commission" means the National Commission for Women constituted under section 3;

(b) "Member" means a Member of the Commission and includes the Member-Secretary;

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

CHAPTER II

THE NATIONAL COMMISSION FOR WOMEN

Consti-
tution
of the
National
Commis-
sion for
Women.

3. (1) This Central Government shall constitute a body to be known as the National Commission for Women to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Commission shall consist of—

(a) a Chairperson, committed to the cause of women, to be nominated by the Central Government;

(b) five Members to be nominated by the Central Government from amongst persons of ability, integrity and standing who have had experience in law or legislation, trade unionism, management of an industry or organisation committed to increasing the employment potential of women, women's voluntary organisations (including women activists), administration, economic development, health, education or social welfare:

Provided that at least one Member each shall be from amongst persons belonging to the Scheduled Castes and Scheduled Tribes respectively;

(c) one Member-Secretary to be nominated by the Central Government, who shall be—

(i) an expert in the field of management, organisational structure or sociological movement, or

(ii) an officer who is a member of a civil service of the Union or of an all-India service or holds a civil post under the Union with appropriate experience.

4. (1) The Chairperson and every Member shall hold office for such period, Term of office and conditions of service of Chairperson and Members, not exceeding three years, as may be specified by the Central Government in this behalf.

(2) The Chairperson or a Member (other than the Member-Secretary who is a member of a civil service of the Union or of an all-India service or holds a civil post under the Union) may, by writing addressed to the Central Government, resign from the office of Chairperson or, as the case may be, of the Member at any time.

(3) The Central Government shall remove a person from the office of Chairperson or a Member referred to in sub-section (2) if that person—

(a) becomes an undischarged insolvent;

(b) gets convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude;

(c) becomes of unsound mind and stands so declared by a competent court;

(d) refuses to act or becomes incapable of acting;

(e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or

(f) in the opinion of the Central Government has so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the public interest :

Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed.

Officers and other employees of the Commission.

5. (1) The Central Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

Salaries and allowances to be paid out of grants

6. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in sub-section (1) of section 11.

Vacancies, etc., not to invalidate proceedings of the Commission.

7. No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

Committees of the Commission.

8. (1) The Commission may appoint such committees as may be necessary for dealing with such special issues as may be taken up by the Commission from time to time.

(2) The Commission shall have the power to co-opt as members of any committee appointed under sub-section (1) such number of persons, who are not Members of the Commission, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.

(3) The persons so co-opted shall be entitled to receive such allowances for attending the meetings of the committee as may be prescribed.

Procedure to be regulated by the Commission.

9. (1) The Commission or a committee thereof shall meet as and when necessary and shall meet at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure and the procedure of the committees thereof.

(3) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by the Member-Secretary in this behalf.

CHAPTER III

FUNCTIONS OF THE COMMISSION

10. (1) The Commission shall perform all or any of the following functions, namely :—

Functions
of the
Commis-
sion.

(a) investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws;

(b) present to the Central Government, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(c) make in such reports recommendations for the effective implementation of those safeguards for improving the conditions of women by the Union or any State;

(d) review, from time to time, the existing provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations;

(e) take up the cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities;

(f) look into complaints and take *suo moto* notice of matters relating to—

(i) deprivation of women's rights;

(ii) non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development;

(iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women,

and take up the issues arising out of such matters with appropriate authorities;

(g) call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal;

(h) undertake promotional and educational research so as to suggest ways of ensuring the representation of women in all spheres and identify factors responsible for impeding their advancement, such as, lack of access to housing and basic services, inadequate support services and technologies for reducing drudgery and occupational health hazards and for increasing their productivity;

VI-Extra-4-2

(i) participate and advice on the planning process of socio-economic development of women;

(j) evaluate the progress of the development of women under the Union and any State;

(k) inspect or cause to be inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise, and take up with the concerned authorities for remedial action, if found necessary;

(l) fund litigation involving issues affecting a large body of women;

(m) make periodical reports to the Government on any matter pertaining to women and in particular various difficulties under which women toil;

(n) any other matter which may be referred to it by the Central Government.

(2) The Central Government shall cause all the reports referred to in clause (b) of sub-section (1) to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(3) Where any such report or any part thereof relates to any matter with which any State Government is concerned, the Commission shall forward a copy of such report or part to such State Government who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance if any, of any such recommendations.

(4) The Commission shall, while investigating any matter referred to in clause (a) or sub-clause (i) of clause (f) of sub-section (1), have all the powers of a civil court trying a suit and, in particular, in respect of the following matters, namely:—

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

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

(c) receiving evidence on affidavits;

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

(e) issuing commissions for the examination of witnesses and documents;

and

(f) any other matter which may be prescribed.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

11. (1) The Central Government shall, after due appropriation made by ^{grants} Parliament by law in this behalf, pay to the Commission by way of grants such ^{by the} sums of money as the Central Government may think fit for being utilised for ^{Central Govern-} the purposes of this Act. ^{ment.}

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

12. (1) The Commission shall maintain proper accounts and other relevant ^{accounts} records and papers ^{and} in such form as may be ^{audit.} prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission.

13. The Commission shall prepare, in such form and at such time, for each ^{Annual} financial year, as may be prescribed, its annual report, giving a full account of ^{report.} its activities during the previous financial year and forward a copy thereof to the Central Government.

14. The Central Government shall cause the annual report together with a ^{Annual} memorandum of action taken on the recommendations contained therein, in so ^{report} far as they relate to the Central Government, and the reasons for the non- ^{and} acceptance, if any, of any of such recommendations and the audit report to be ^{audit} laid as soon as may be after the reports are received, before each House of ^{report} Parliament. ^{to be} ^{laid} ^{before} ^{Parlia-} ^{ment.}

CHAPTER V

MISCELLANEOUS

Chairperson
Members
and
staff of the
Commission
to be Public
servants

15. The Chairperson, the Members, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 45 of 1860. 21 of the India Penal Code.

Central
Govern-
ment to
consult
Commission

16. The Central Government shall consult the Commission on all major policy matters affecting women.

Power
to make
rules.

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

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

(a) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (5) of section 4 and of officers and other employees under sub-section (2) of section 5;

(b) allowances for attending the meetings of the committee by the co-opted persons under sub-section (3) of section 8;

(c) other matters under clause (f) of sub-section (4) of section 10;

(d) the form in which the annual statement of accounts shall be maintained under sub-section (1) of section 12;

(e) the form in, and the time at, which the annual report shall be prepared under section 13;

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

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

Sd/-

V. S. RAMA DEVI,

Secretary to the Government of India

By order and in the name of the Governor of Gujarat,

B. K. SHAH,

Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXIII THURSDAY, MARCH 21, 1991/PHALGUNA 30, 1912

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

P A R T VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 21st March, 1991.

No. RP/12/91/21-90/Research.—The following Act of Parliament is re-
published for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 11th September, 1990/Bhadra 20, 1912 (Saka).

The following Act of Parliament received the assent of the President on the
10th September, 1990 and is hereby published for general information :

5-1

VI—Ex.—5-1

**THE ARMED FORCES (JAMMU AND KASHMIR)
SPECIAL POWERS ACT, 1990.**

[Act No. 21 of 1990].

[10th September, 1990].

AN ACT

*to enable certain special powers to be conferred upon members of the
armed forces in the disturbed areas in the State of
Jammu and Kashmir.*

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

Short
title ||
extent
and
com-
mence-
ment.

1. (1) This Act may be called the Armed Forces (Jammu and Kashmir)
Special Powers Act, 1990.

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

(3) It shall be deemed to have come into force on the 5th day of July, 1990.

Defini-
tions.

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^{45 of 1950.}
defined in the Air Force Act, 1950, or the Army Act, 1950, shall have the^{46 of 1950.}
meanings respectively assigned to them in those Acts.

Power to
declare
areas to be
disturbed
areas.

3. If, in relation to the State of Jammu and Kashmir, the Governor of that
State or the Central Government, is of opinion that the whole or any part of
the State is in such a disturbed and dangerous condition that the use of armed
forces in aid of the civil power is necessary to prevent—

(a) activities involving terrorist acts directed towards overawing the
Government as by law established or striking terror in the people or any
section of the people or alienating any section of the people or adversely
affecting the harmony amongst different sections of the people;

(b) activities directed towards disclaiming, questioning or disrupting the
sovereignty and territorial integrity of India or bringing about cession of a
part of the territory of India or secession of a part of the territory of India
from the Union or causing insult to the Indian National Flag, the Indian
National Anthem and the Constitution of India,

the Governor of the State or the Central Government, may, by notification in
the Official Gazette, declare the whole or any part of the State to be a disturbed
area.

Explanation.—In this section, “terrorist act” has the same meaning as in *Explanation* to article 248 of the Constitution of India as applicable to the State of Jammu and Kashmir.

4. Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed areas,—^{Special powers of the armed Forces.}

(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, and seize any such property, arms, ammunition or explosive substances;

(e) Stop, search and seize any vehicle or vessel reasonably suspected to be carrying any person who is a proclaimed offender, or any person who has committed a non-cognizable offence, or against whom a reasonable suspicion exists that he has committed or is about to commit a non-cognizable offence, or any person who is carrying any arms, ammunition or explosive substance believed to be unlawfully held by him, and may, for that purpose, use such force as may be necessary to effect such stoppage, search or seizure, as the case may be.

5. Every person making a search under this Act shall have the power to break open the lock of any door, almirah, safe, box, cupboard, drawer, package or other thing, if the key thereof is withheld.

Power of search to include powers to break open locks, etc.

Arrested persons and seized property to be made over to the police.

Protection of persons acting in good faith under this Act.

Repeal and saving.

6. Any person arrested and taken into custody under this Act and every property, arms, ammunition or explosive substance or any vehicle or vessel seized 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, or as the case may be, occasioning the seizure of such property, arms, ammunition or explosive substance or any vehicle or vessel, as the case may be.

7. 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.

8. (1) The Armed Forces (Jammu and Kashmir) Special Powers Ordinance, 1990, is hereby repealed.

8 of 1990.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

Sd/—

V. S. RAMA DEVI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] TUESDAY, APRIL 2, 1991/CAITRA 12, 1913

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

P A R T VI

Act of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 2nd April, 1991.

No. RP/16/91/25/90/Research.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 12th September, 1990/Bhadra 21, 1912 (Saka)

The following Act of Parliament received the assent of the President on the 12th September, 1990 and is hereby published for general information :

6-1

VI-Extra-6-1

THE PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA) ACT, 1990

[Act No. 25 of 1990]

[12th September, 1990]

AN ACT

to provide for the establishment of a Broadcasting Corporation for India, to be known as Prasar Bharati, to define its composition, functions and powers and to provide for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-first 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 Prasar Bharati (Broadcasting Corporation of India) Act, 1990.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification, appoint.

Defini-
tions.

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

(a) "Akashvani" means the offices, stations and other establishments, by whatever name called, which, immediately before the appointed day, formed part of or were under the Director-General, All India Radio of the Union Ministry of Information and Broadcasting;

(b) "appointed day" means the date appointed under section 3;

(c) "broadcasting" means the dissemination of any form of communication like signs, signals, writing, pictures, images and sounds of all kinds by transmission of electro-magnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations and all its grammatical variations and cognate expressions shall be construed accordingly;

(d) "Board" means the Prasar Bharati Board;

(e) "Broadcasting Council" means the Council established under section 14;

(f) "Chairman" means the Chairman of the Corporation appointed under section 4;

(g) "Corporation" means the Prasar Bharati (Broadcasting Corporation of India) established under section 3;

(h) "Doordarshan" means the offices, kendras and other establishments, by whatever name called, which, immediately before the appointed day, formed part of or were under the Directorate-General, Doordarshan of the Union Ministry of Information and Broadcasting;

(i) "elected Member" means a Member elected under section 3;

(j) "Executive Member" means the Executive Member appointed under section 4;

(k) "kendra" means any telecasting centre with studios or transmitters or both and includes a relay station;

(l) "Member" means a Member of the Board;

(m) "Member (Finance)" means the Member (Finance) appointed under section 4;

(n) "Member (Personnel)" means the Member (Personnel) appointed under section 4;

(o) "Nominated Member" means the Member nominated by the Union Ministry of Information and Broadcasting under section 3;

(p) "Non-lapsable Fund" means the Fund created from the commercial revenues of Akashvani and Doordarshan to meet expenditure on certain schemes;

(q) "notification" means a notification published in the Official Gazette;

(r) "Part-time Member" means a Part-time Member of the Board appointed under section 4, but does not include an *ex officio* Member, the Nominated Member or an elected Member;

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

(t) "Recruitment Board" means a board established under sub-section (1) of section 10;

(u) "regulations" means regulations made by the Corporation under this Act;

(v) "station" means any broadcasting station with studios or transmitters or both and includes a relay station;

(w) "Whole-time Member" means the Executive Member, Member (Finance) or Member (Personnel);

(x) "year" means the financial year.

CHAPTER II

PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA)

Establishment and composition of Corporation.

3. (1) With effect from such date as the Central Government may by notification appoint in this behalf, there shall be established for the purposes of this Act a Corporation, to be known as the Prasar Bharati (Broadcasting Corporation of India).

(2) The Corporation shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The headquarters of the Corporation shall be at New Delhi and the Corporation may establish offices, kendras or stations at other places in India and, with the previous approval of the Central Government, outside India.

(4) The general superintendence, direction and management of the affairs of the Corporation shall vest in the Prasar Bharati Board which may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation under this Act.

(5) The Board shall consist of—

- (a) a Chairman;
- (b) one Executive Member;
- (c) one Member (Finance);
- (d) one Member (Personnel);
- (e) six Part-time Members;
- (f) Director-General (Akashvani), *ex-officio*;
- (g) Director-General (Doordarshan), *ex-officio*;
- (h) one representative of the Union Ministry of Information and Broadcasting, to be nominated by that Ministry; and
- (i) two representatives of the employees of the Corporation, of whom one shall be elected by the engineering staff from amongst themselves and one shall be elected by the other employees from amongst themselves.

(6) The Corporation may appoint such committees as may be necessary for the efficient performance, exercise and discharge of its functions, powers and duties;

Provided that all or a majority of the members of each committee shall be Members and a member of any such committee who is not a Member shall have only the right to attend meetings of the committee and take part in the proceedings thereof, but shall not have the right to vote.

(7) The Corporation may associate with itself, in such manner and for such purposes as may be provided by regulations, any person whose assistance or advice it may need in complying with any of the provisions of this Act and a person so associated shall have the right to take part in the discussions of the Board relevant to the purposes for which he has been associated, but shall not have the right to vote.

(8) No act or proceeding of the Board or of any committee appointed by it under sub-section (6) shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board or such committee; or

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

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

4. (1) The Chairman and the other Members, except the *ex officio* Members, the Nominated Member and the elected Members shall be appointed by the President of India on the recommendation of a committee consisting of—

Appoint-
ment
of Chair-
man and
other
Members.

(a) the Chairman of the Council of States, who shall be the Chairman of the Committee;

(b) the Chairman of the Press Council of India established under section 4 of the Press Council Act, 1978; and

7 of 1978. (c) one nominee of the President of India.

(2) No appointment of a Member shall be invalidated merely by reason of any vacancy in, or any defect in the constitution of, the committee appointed under sub-section (1).

(3) The Chairman and the Part-time members shall be persons of eminence in public life; the Executive Member shall be a person having special knowledge or practical experience in respect of such matters as administration, management, broadcasting, education, literature, culture, arts, music, dramatics or journalism; the Member (Finance) shall be a person having special knowledge or practical experience in respect of financial matters and the Member (Personnel) shall be a person having special knowledge or practical experience in respect of personnel management and administration.

(4) The recommendations made by the committee constituted under sub-section (1) shall be binding for the purposes of appointments under this section.

Powers
and
functions
of
Executive
Member.

5. The Executive Member shall be the Chief Executive of the Corporation and shall, subject to the control and supervision of the Board, exercise such powers and discharge such functions of the Board as it may delegate to him.

Term of
office,
condi-
tions of
service,
etc., of
Chairman
and other
Members.

6. (1) The Chairman shall be Part-time Member and shall hold office for a term of six years from the date on which he enters upon his office.

(2) The Executive Member, the Member (Finance) and the Member (Personnel) shall be Whole-time Members and every such Member shall hold office for a term of six years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.

(3) The term of office of Part-time Members shall be six years, but one-third of such Members shall retire on the expiration of every second year.

(4) The term of office of an elected Member shall be two years or till he ceases to be an employee of the Corporation, whichever is earlier.

(5) As soon as may be after the establishment of the Corporation, the President of India may, by order, make such provision as he thinks fit for curtailing the term of office of some of the Part-time Members then appointed in order that one-third of the Members holding office as such Part-time Members shall retire in every second year thereafter.

(6) Where before the expiry of the term of office of a person holding the office of Chairman, or any other Member, a vacancy arises, for any reason whatsoever, such vacancy shall be deemed to be a casual vacancy and the person appointed or elected to fill such vacancy shall hold office for the unexpired period of the term for which his predecessor in office would have held office if such vacancy had not arisen.

(7) The Whole-time Members shall be the employees of the Corporation and as such shall be entitled to such salaries and allowances and shall be subject to such conditions of service in respect of leave, pension (if any), provident fund and other matters as may be prescribed:

Provided that the salaries and allowances and the conditions of service shall not be varied to their disadvantage after their appointment.

(8) The Chairman and Part-time Members shall be entitled to such allowances as may be prescribed.

Removal
and sus-
pension
of Chair-
man and
Members.

7. (1) Subject to the provisions of sub-section (3), the Chairman or any other Member, except an *ex officio* Member, the Nominated Member and an elected Member, shall only be removed from his office by order of the President of India on the ground of misbehaviour after the Supreme Court, on a reference being made to it by the President, has, on inquiry held in accordance with such procedure as the Supreme Court may by rules provide, reported that the Chairman or such other Member, as the case may be, ought, on such ground, be removed.

(2) The President may suspend from office the Chairman or other Member, except an *ex officio* Member, the Nominated Member or an elected Member, in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may, by order, remove the Chairman or any Whole-time Member from his office if such Chairman or such Whole-time Member—

- (a) ceases to be a citizen of India; or
- (b) is adjudged an insolvent; or
- (c) engages during his term of office in any paid employment outside the duties of his office; or
- (d) is convicted of any offence involving moral turpitude; or
- (e) is, in the opinion of the President, unfit to continue in office by reason of infirmity of body or mind:

Provided that the President may, by order remove any Part-time Member from his office if he is adjudged an insolvent or is convicted of any offence involving moral turpitude or where he is, in the opinion of the President, unfit to continue in office by reason of infirmity of body or mind.

(4) If the Chairman or any Whole-time Member, except any *ex-officio* Member, the Nominated Member or any elected Member, is, or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Corporation or the Government of India or the Government of a State or, participates in any way in the profit thereof, or in any benefit or emolument arising therefrom than as a member, and in common with other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

(5) If a Part-time Member is, or becomes in any way concerned, or interested in any contract or agreement made by or on behalf of the Corporation, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

(6) The Chairman or any other Member may resign his office by giving notice thereof in writing to the President of India and on such resignation being accepted, the Chairman or other Member shall be deemed to have vacated his office.

8. (1) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations: Meetings of Board.

Provided that there shall not be less than six meetings every year but three months shall not intervene between one meeting and the next meeting.

(2) A Member shall be deemed to have vacated his office if he absents himself for three consecutive meetings of the Board without the leave of the Chairman.

(3) The Chairman shall preside at the meetings of the Board and if for any reason he is unable to attend any meeting, the Executive Member and in the absence of both, any other Member elected by the Members present at such meeting, shall preside at the meeting.

(4) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the Members present and voting and, in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have and exercise a second or casting vote.

Officers
and
other
employees
of Corporation.

9. (1) Subject to such control, restrictions and conditions as may be prescribed, the Corporation may appoint, after consultation with the Recruitment Board, the Director-General (Akashvani), the Director-General (Doordarshan) and such other officers and other employees as may be necessary.

(2) The method of recruitment of such officers and employees and all other matters connected therewith and the conditions of service of such officers and other employees shall be such as may be provided by regulations.

Establishment of
Recruitment
Board.

10. (1) The Corporation shall, as soon as may be, after the appointed day and in such manner and subject to such conditions and restrictions as may be prescribed, establish for the purposes of section 9, one or more Recruitment Boards consisting wholly of persons other than the Members, officers and other employees of the Corporation:

Provided that for the purposes of appointment to the posts carrying scales of pay which are not less than of a Joint Secretary to the Central Government, the Recruitment Board shall consist of the Chairman, other Members, the *ex officio* Members, the Nominated Member and the elected Members.

(2) The qualifications and other conditions of service of the members constituting the Recruitment Board and the period for which such members shall hold office, shall be such as may be prescribed.

Transfer
of service of
existing
employees to
Corporation.

11. (1) Where the Central Government has ceased to perform any functions which under section 12 are the functions of the Corporation, it shall be lawful for the Central Government to transfer, by order and with effect from such date or dates as may be specified in the order, to the Corporation any of the officers or other employees serving in the Akashvani or Doordarshan and engaged in the performance of those functions:

Provided that no order under this sub-section shall be made in relation to any officer or other employee in the Akashvani or Doordarshan who has, in respect of the proposal of the Central Government to transfer such officer or other employee to the Corporation, intimated within such time as may be specified in this behalf by the Central Government, his intention of not becoming an employee of the Corporation.

(2) The provisions of sub-section (1) shall also apply to the members of the Indian Information Service, the Central Secretariat Service or any other service or to persons borne on carders outside Akashvani and Doordarshan who have been working in Akashvani or Doordarshan immediately before the appointed day:

Provided that where any such member intimates, within the time specified in sub-section (1), his intention of not becoming an employee of the Corporation but to continue on deputation, he may be allowed to continue on deputation in accordance with such terms and conditions as may be prescribed.

(3) In making an order under sub-section (1), the Central Government shall, as far as may be, take into consideration the functions which the Akashvani or, as the case may be, Doordarshan has ceased or ceases to perform and the area in which such functions have been or are performed.

(4) An officer or other employee transferred by an order under sub-section (1) shall, on and from the date of transfer, cease to be an employee of the Central Government and become an employee of the Corporation with such designation as the Corporation may determine and shall, subject to the provisions of sub-sections (5) and (6), be governed by such regulations as may be made as respects remuneration and other conditions of service including pension, leave and provident fund and shall continue to be an officer or other employee of the Corporation unless and until his employment is terminated by the Corporation.

(5) Every officer or other employee transferred by an order made under sub-section (1) shall, within six months from the date of transfer, exercise his option, in writing, to be governed—

(a) by the scale of pay applicable to the post held by him in the Akashvani or Doordarshan immediately before the date of transfer or by the scale applicable to the post under the Corporation to which he is transferred;

(b) by the leave, provident fund, retirement or other terminal benefits admissible to employees of the Central Government in accordance with the rules or orders of the Central Government, as amended from time to time, or the leave, provident fund or other terminal benefits admissible to the employees of the Corporation under the regulations,

and such option once exercised under this Act shall be final:

Provided that the option exercised under clause (a) by an officer or other employee shall be applicable only in respect of the post under the Corporation to which such officer or other employee is transferred and on appointment to a higher post under the Corporation he shall be eligible only for the scale of pay applicable to such higher post:

VI-Extra 6-3

Provided further that if immediately before the date of his transfer any such officer or other employee is officiating in a higher post under the Government either in a leave vacancy or any other vacancy of a specified duration, his pay on transfer shall be protected for the un-expired period of such vacancy and thereafter he shall be entitled to the scale of pay applicable to the post under the Government to which he would have reverted or to the scale of pay applicable to the post under the Corporation to which he is transferred, whichever he may opt :

Provided also that when an officer or other employee serving in the Union Ministry of Information and Broadcasting or in any of its attached or subordinate offices is promoted to officiate in a higher post in the Ministry or office subsequent to the transfer to the Corporation of any other officer or employee senior to him in that Ministry or office before such transfer, the officer or other employee who is promoted to officiate in such higher post shall, on transfer to the Corporation, be entitled only to the scale of pay applicable to the post he would have held but for such promotion or the scale of pay applicable to the post under the Corporation to which he is transferred, whichever he may opt.

(6) No officer or other employee transferred by an order made under sub-section (1) or sub-section (2),—

(a) shall be dismissed or removed by an authority subordinate to that competent to make a similar or equivalent appointment under the Corporation as may be specified in the regulations;

(b) shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges:

Provided that where it is proposed after such inquiry to impose upon him any such penalty, such penalty may be imposed on the basis of evidence adduced during such inquiry and it shall not be necessary to give such person an opportunity of making representation on the proposed penalty :

Provided further that clause (b) shall not apply where an officer or other employee is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge.

Functions
and
powers
of Cor-
poration.

12. (1) Subject to the provisions of this Act, it shall be the primary duty of the Corporation to organise and conduct public broadcasting services to inform, educate and entertain the public and to ensure a balanced development of broadcasting on radio and television.

Explanation.—For the removal of doubts, it is hereby declared that the provisions of this section shall be in addition to, and not in derogation of, the provisions of the Indian Telegraph Act, 1885. 18 of 1985.

(2) The Corporation shall, in the discharge of its functions, be guided by the following objectives, namely :—

(a) upholding the unity and integrity of the country and the values enshrined in the Constitution;

(b) safeguarding the citizen's right to be informed freely, truthfully and objectively on all matters of public interest, national or international, and presenting a fair and balanced flow of information including contrasting views without advocating any opinion or ideology of its own;

(c) paying special attention to the fields of education and spread of literacy, agriculture, rural development, environment, health and family welfare and science and technology;

(d) providing adequate coverage to the diverse cultures and languages of the various regions of the country by broadcasting appropriate programmes;

(e) providing adequate coverage to sports and games so as to encourage healthy competition and the spirit of sportsmanship;

(f) providing appropriate programmes keeping in view the special needs of the youth;

(g) informing and stimulating the national consciousness in regard to the status and problems of women and paying special attention to the upliftment of women;

(h) promoting social justice and combating exploitation, inequality and such evils as untouchability and advancing the welfare of the weaker sections of the society;

(i) safeguarding the rights of the working classes and advancing their welfare;

(j) serving the rural and weaker sections of the people and those residing in border regions, backward or remote areas;

(k) providing suitable programmes keeping in view the special needs of the minorities and tribal communities;

(l) taking special steps to protect the interests of children, the blind, the aged, the handicapped and other vulnerable sections of the people;

(m) promoting national integration by broadcasting in a manner that facilitates communication in the languages in India; and facilitating the distribution of regional broadcasting services in every State in the languages of that State;

(n) providing comprehensive broadcast coverage through the choice of appropriate technology and the best utilisation of the broadcast frequencies available and ensuring high quality reception;

(o) promoting research and development activities in order to ensure that radio and television broadcast technology are constantly updated; and

(p) expanding broadcasting facilities by establishing additional channels of transmission at various levels.

(3) In particular, and without prejudice to the generality of the foregoing provisions, the Corporation may take such steps as it thinks fit—

(a) to ensure that broadcasting is conducted as a public service to provide and produce programmes;

(b) to establish a system for the gathering of news for radio and television;

(c) to negotiate for purchase of, or otherwise acquire programmes and rights or privileges in respect of sports and other events, films, serials, occasions, meetings, functions or incidents of public interest, for broadcasting and to establish procedures for the allocation of such programmes, rights of privileges to the services;

(d) to establish and maintain a library or libraries of radio, television and other materials;

(e) to conduct or commission, from time to time, programmes, audience research, market or technical service, which may be released to such persons and in such manner and subject to such terms and conditions as the Corporation may think fit;

(f) to provide such other services as may be specified by regulations.

(4) Nothing in sub-sections (2) and (3) shall prevent the Corporation from managing on behalf of the Central Government and in accordance with such terms and conditions as may be specified by that Government the broadcasting of External Services and monitoring of broadcasts made by organisations outside India on the basis of arrangements made for reimbursement of expenses by the Central Government.

(5) For the purposes of ensuring that adequate time is made available for the promotion of the objectives set out in this section, the Central Government shall have the power to determine the maximum limit of broadcast time in respect of the advertisement.

(6) The Corporation shall be subject to no civil liability on the ground merely that it failed to comply with any of the provisions of this section.

(7) The Corporation shall have power to determine and levy fees and other service charges for or in respect of the advertisements and such programmes as may be specified by regulations :

Provided that the fees and other service charges levied and collected under this sub-section shall not exceed such limits as may be determined by the Central Government, from time to time.

13. (1) There shall be constituted a Committee consisting of twenty-two Members of Parliament, of whom fifteen from the House of the People to be elected by the Members thereof and seven from the Council of States to be elected by the Members thereof in accordance with the system of proportional representation by means of the single transferable vote, to oversee that the Corporation discharges its functions in accordance with the provisions of this Act and, in particular, the objectives set out in section 12 and submit a report thereon to Parliament.

(2) The Committee shall function in accordance with such rules as may be made by the Speaker of the House of the People.

14. (1) There shall be established, by notification, as soon as may be after the appointed day, a Council, to be known as the Broadcasting Council, to receive and consider complaints referred to in section 15 and to advise the Corporation in the discharge of its functions in accordance with objectives set out in section 12.

(2) The Broadcasting Council shall consist of—

(i) a President and ten other members to be appointed by the President of India from amongst persons of eminence in public life;

(ii) four Members of Parliament, of whom two from the House of the People to be nominated by the Speaker thereof and two from the Council of States to be nominated by the Chairman thereof.

(3) The President of the Broadcasting Council shall be a whole-time member and every other member shall be a part-time member and the President or the part-time member shall hold office as such for a term of three years from the date on which he enters upon his office.

(4) The Broadcasting Council may constitute such number of Regional Councils as, it may deem necessary to aid and assist the Council in the discharge of its functions.

(5) The President of the Broadcasting Council shall be entitled to such salary and allowances and shall be subject to such conditions of service in respect of leave, pension (if any), provided fund and other matters as may be prescribed :

Provided that the salary and allowances and the conditions of service shall not be varied to the disadvantage of the President of the Broadcasting Council after his appointment.

(6) The other members of the Broadcasting Council and the members of the Regional Councils constituted under sub-section (4) shall be entitled to such allowances as may be prescribed.

Jurisdiction of, and the procedure to be followed by, Broadcasting Council.

15. (1) The Broadcasting Council shall receive and consider complaints from—

(i) any person or group of persons alleging that a certain programme or broadcast or the functioning of the Corporation in specific cases or in general is not in accordance with the objectives for which the Corporation is established;

(ii) any person (other than an officer or employee of the Corporation) claiming himself to have been treated unjustly or unfairly in any manner (including unwarranted invasion of privacy, misrepresentation, distortion or lack of objectivity) in connection with any programme broadcast by the Corporation.

(2) A complaint under sub-section (1) shall be made in such manner and within such period as may be specified by regulations.

(3) The Broadcasting Council shall follow such procedure as it thinks fit for the disposal of complaints received by it.

(4) If the complaint is found to be justified either wholly or in part, the Broadcasting Council shall advise the Executive Member to take appropriate action.

(5) If the Executive Member is unable to accept the recommendation of the Broadcasting Council, he shall place such recommendation before the Board for its decision thereon.

(6) If the Board is also unable to accept the recommendation of the Broadcasting Council, it shall record its reasons therefor and inform the Broadcasting Council accordingly.

(7) Notwithstanding anything contained in sub-sections (5) and (6), where the Broadcasting Council deems it appropriate, it may, for reasons to be recorded in writing, require the Corporation to broadcast its recommendations with respect to a complaint in such manner as the Council may deem fit.

CHAPTER III

ASSETS, FINANCES AND ACCOUNTS

16. As from the appointed day,—

(a) all property and assets (including the Non-lapsable Fund) which immediately before that day vested in the Central Government for the purpose of Akashvani or Doordarshan or both shall stand transferred to the Corporation on such terms and conditions as may be determined by the Central Government and the book value of all such property and assets shall be treated as the capital provided by the Central Government to the Corporation: Trans-
fer of
certain
assets,
liabili-
ties, etc.,
of Cen-
tral Gov-
ernment
to Cor-
poration.

(b) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Central Government immediately before such day for or in connection with the purposes of Akashvani or Doordarshan or both shall be deemed to have been incurred, entered into and engaged to be done by, with or for the Corporation;

(c) all sums of money due to the Central Government in relation to the Akashvani or Doordarshan or both immediately before such day shall be deemed to be due to the Corporation;

(d) all suits and other legal proceedings instituted or which could have been instituted by or against the Central Government immediately before such day for any matter in relation to the Akashvani or Doordarshan or both may be continued or instituted by or against the Corporation.

17. For the purposes of enabling the Corporation to discharge its functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Corporation in each financial year,— Grants,
etc.,
by Central
Government.

(i) the proceeds of the broadcast receiver licence fees, if any, as reduced by the collection charges; and

(ii) such other sums of money as that Government considers necessary.

by way of equity, grant-in-aid or loan.

18. (1) The Corporation shall have its own Fund and all the receipts of the Corporation (including the amounts which stand transferred to the Corporation under section 16) shall be credited to the Fund and all payments by the Corporation shall be made therefrom. Fund of
Corpora-
tion.

(2) All moneys belonging to the Fund shall be deposited in one or more nationalised banks in such manner as the Corporation may decide.

(3) The Corporation may spend such sums as it thinks fit for performing its functions under this Act and such sums shall be treated as expenditure payable out of the Fund of the Corporation.

Explanation.—For the purposes of this section, “nationalised bank” means a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

5 of 1970.

40 of 1980.

Invest-
ment of
moneys.

19. The Corporation may invest its moneys in the securities of the Central Government or any State Government or in such other manner as may be prescribed.

Annual
Financial
State-
ment of
the Cor-
poration.

20. (1) The Corporation shall prepare, in each financial year, an Annual Financial Statement for the next financial year showing separately—

(a) the expenditure which is proposed to be met from the internal resources of the Corporation; and

(b) the sums required from the Central Government to meet other expenses, and distinguishing—

(i) revenue expenditure from other expenditure; and

(ii) non-plan expenditure from plan expenditure.

(2) The Annual Financial Statement shall be prepared in such form and forwarded at such time to the Central Government for its approval as may be agreed to by that Government and the Corporation.

Accounts
and audit
of Cor-
poration.

21. (1) The Corporation shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and in such manner as may be prescribed.

(2) The accounts of the Corporation shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Corporation to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Corporation shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Corporation.

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

48 of 1961. 22. Notwithstanding anything contained in the Income-tax Act, 1961, or any other enactment for the time being in force relating to income-tax or any other tax on income, profits or gains, the Corporation shall not be liable to pay any income-tax or any other tax in respect of—

Corporation not liable to be taxed.

(a) any income, profits or gains, accruing or arising out of the Fund of the Corporation or any amount received in that Fund; and

(b) any income, profits or gains, derived or any amount received, by the Corporation.

CHAPTER IV

MISCELLANEOUS

23. (1) The Central Government may, from time to time as and when occasion arises, issue to the Corporation such directions as it may think necessary in the interest of the sovereignty, unity and integrity of India or the security of the State or preservation of public order requiring it not make a broadcast on a matter specified in the direction or to make a broadcast on any matter of public importance specified in the direction.

Power of Central Government to give directions.

(2) Where the Corporation makes a broadcast in pursuance of the direction issued under sub-section (1), the fact that such broadcast has been made in pursuance of such direction may also be announced along with such broadcast, if the Corporation so desires.

(3) A copy of every direction issued under sub-section (1) shall be laid before each House of Parliament.

24. The Central Government may require the Corporation to furnish such information as that Government may consider necessary.

Power of Central Government to obtain information.

25. (1) Where the Board persistently makes default in complying with any directions issued under section 23 or fails to supply the information required under section 24, the Central Government may prepare a report thereof and lay it before each House of Parliament for any recommendation thereof as to any action (including supersession of the Board) which may be taken against the Board.

Report to Parliament in certain matters and recommendations as to action against the Board.

(2) On the recommendation of the Parliament, the President may be notified to supersede the Board for such period not exceeding six months as may be specified in the notification :

VI-Extra 6-5

Provided that before issuing the notification under this sub-section the President shall give a reasonable opportunity to the Board to show cause as to why it should not be superseded and shall consider the explanations and objections, if any of the Board.

(3) Upon the publication of the notification under sub-section (2),—

(a) all the Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act be exercised or discharged by or on behalf of the Board, shall, until the Board is reconstituted under this Act, be exercised and discharged by such person or persons as the President may direct.

(4) On the expiration of the period of supersession specified in the notification issued under sub-section (2), the President may reconstitute the Board by fresh appointments, and in such case any person who had vacated his office under clause (a) of sub-section (3) shall not be disqualified for appointment :

Provided that the President may, at any time before the expiration of the period of supersession, take action under this sub-section.

(5) The Central Government shall cause the notification issued under sub-section (2) and a full report of the action taken under this section to be laid before each House of Parliament.

Office of member not to disqualified a Member of Parliament.

26. It is hereby declared that the office of the member of the Broadcasting Council or of the Committee constituted under section 13 shall not disqualify its holder for being chosen as, or for being, a Member of either House of Parliament.

Chairman, Members, etc., to be public servants.

27. The Chairman and every other Member, every officer or other employee of the Corporation and every member of a Committee thereof, the President and every member of the Broadcasting Council or every member of a Regional Council or a Recruitment Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1960.

Protection of action taken in good faith.

28. No suit or other legal proceeding shall lie against the Corporation the Chairman or any Member or officer or other employee thereof or the President or a member of the Broadcasting Council or a member of a Regional Council or a Recruitment Board for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or regulations made thereunder.

29. All orders and decisions of the Corporation shall be authenticated by the signature of the Chairman or any other Member authorised by the Corporation in this behalf and all other instruments executed by the Corporation shall be authenticated by the signature of the Executive Member or by any officer of the Corporation authorised by him in this behalf.

Authen-
tication
of orders
and
other
instru-
ments of
Corpo-
ration.

30. The Corporation may, by general or special order, delegate to the Chairman or any other Member or to any officer of the Corporation, subject to such conditions and limitations, if any, as may be specified therein, such of its powers and duties under this Act as it may deem fit.

Delega-
tion of
powers.

31. (1) The Corporation shall prepare once in every calendar year, in such form and within such time as may be prescribed, an annual report giving a full account of its activities (including the recommendations and suggestions made by the Broadcasting Council and the action taken thereon) during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Annual
report.

(2) The Broadcasting Council shall prepare once in every calendar year, in such form and within such time as may be prescribed, an annual report giving a full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

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

Power
to make
rules.

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

(a) the salaries and allowances and conditions of service in respect of leave, pension (if any), provident fund and other matters in relation to the Whole-time Members under sub-section (7) of section 6;

(b) the allowances payable to the Chairman and Part-time Members under sub-section (8) of section 6;

(c) the control, restrictions and conditions subject to which the Corporation may appoint officers and other employees under sub-section (1) of section 9;

(d) the manner in which and the conditions and restrictions subject to which a Recruitment Board may be established under sub-section (1) of section 10;

(e) the qualifications and other conditions of service of the members of a Recruitment Board and their period of office under sub-section (2) of section 10;

(f) the terms and conditions in accordance with which the deputation may be regulated under sub-section (2) of section 11;

(g) the salary and allowances and conditions of service in respect of leave, pension (if any), provident fund and other matters in relation to the President of the Broadcasting Council under sub-section (5) of section 14;

(h) the allowances payable to other members of the Broadcasting Council and the members of the Regional Councils, under sub-section (6) of section 14;

(i) the manner in which the Corporation may invest its moneys under section 19;

(j) the form and the manner in which the annual statement of accounts shall be prepared under sub-section (1) of section 21;

(k) the form in which, and the time within which, the Corporation and the Broadcasting Council shall prepare their annual report under section 31;

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

Power
to make
regu-
lations.

33. (1) The Corporation may, by notification, make regulations not inconsistent with this Act and the rules made thereunder for enabling it to perform its functions under this Act.

(2) Without prejudice to the generality of the foregoing power such regulations may provide for all or any of the following matters, namely :—

(a) the manner in which and the purposes for which the Corporation may associate with itself any person under sub-section (7) of section 3;

(b) the times and places at which meetings of the Board shall be held and, the procedure to be followed thereat, and the quorum necessary for the transaction of the business at a meeting of the Board under sub-section (1) of section 8;

(c) the methods of recruitment and conditions of service of officers and other employees of the Corporation under sub-section (2) of section 9;

(d) the remuneration and other conditions of service, including pension, leave and provident fund in relation to an officer or other employee of the Corporation under sub-section (4) of section 11;

(e) the authority competent to make certain appointments referred to in clause (a) of sub-section (6) of section 11;

(f) the services which may be provided by the Corporation under clause (f) of sub-section (3) of section 12;

(g) the determination and levy of fees and other service charges in respect of advertisements and other programmes under sub-section (7) of section 12;

(h) the manner in which and the period within which complaints may be made under sub-section (2) of section 15;

(i) any other matter in respect of which provision is, in the opinion of the Corporation, necessary for the performance of its functions under this Act;

Provided that the regulations under clause (c) or clause (d) shall be made only with the prior approval of the Central Government.

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

Rules and Regulations to be laid before Parliament.

35. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the *Official Gazette*, make such provisions, not inconsistent with the provisions of this Act, as it may deem necessary, for the removal of the difficulty :

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of three years from the appointed day.

V. S. RAMA DEVI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

VI-Extra6-6

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] TUESDAY, APRIL 2, 1991/CAITRA 12, 1913

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

P A R T VI

Act of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 2nd April, 1991.

No. RP/11/91/26-27/90/Research.—The following Acts of Parliament are
re-published for general information:

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 13th September, 1990/Bhadra 22, 1912 (Saka).

The following Acts of Parliament received the assent of the President on the
13th September, 1990 and are hereby published for general information:

7-1

VI-Extra-7-1

**THE PREVENTION OF ILLICIT TRAFFIC IN NARCOTIC DRUGS AND
PSYCHOTROPIC SUBSTANCES (AMENDMENT) ACT, 1990**

[Act No. 26 of 1990]

[13th September, 1990]

AN ACT

*further to amend the Prevention of Illicit Traffic in Narcotic Drugs and
Psychotropic Substances Act, 1988.*

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

Short
title and
commence-
ment.

1. (1) This Act may be called the Prevention of Illicit Traffic in Narcotic
Drugs and Psychotropic Substances (Amendment) Act, 1990.

(2) It shall be deemed to have come into force on the 30th day of July, 1990.

Amend-
ment of
section 10
of Act
46 of 1988.

2. In the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic
Substances Act, 1988 (hereinafter referred to as the principal Act), in section
10, in sub-section (1), for the figures, letters and words "31st day of July, 1990",
the figures, letters and words "31st day of July, 1993" shall be substituted.

Repeal
and
saving.

3. (1) The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic
Substances (Amendment) Ordinance, 1990, is hereby repealed. Ord. 4 of
1990.

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

Sd/—

V. S. RAMA DEVI,

Secretary to the Government of India.

THE CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION
OF SMUGGLING ACTIVITIES (AMENDMENT) ACT, 1990

[Act No. 27 of 1990]

[13th September, 1990]

AN ACT

*further to amend the Conservation of Foreign Exchange and Prevention
of Smuggling Activities Act, 1974.*

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

1. (1) This Act may be called the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1990.

Short title
and com-
mence-
ment.

(2) It shall be deemed to have come into force on the 30th day of July, 1990.

2. In the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (hereinafter referred to as the principal Act), in section 9, in sub-section (1), for the figures, letters and words "31st day of July, 1990", the figures, letters and words "31st day of July, 1993" shall be substituted.

Amend-
ment of
section 9
of Act
52 of
1974.

Ord. 5 of
1990.

3. (1) The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1990, is hereby repealed.

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

Repeal
and sav-
ing.

Sd/—

V. S. RAMA DEVI,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,

Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII]

MONDAY, APRIL 15, 1991/CAITRA 25, 1913

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

P A R T VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 12th April, 1991.

No. RP/20/91/1-2/91/Research.—The following Acts of Parliament are re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 16th January, 1991/Pausa 26, 1912 (Saka).

The following Acts of Parliament received the assent of the President on the 15th January, 1991 and are hereby published for general information :

8-1

VI-Extra-8-1

THE CANTONMENTS (AMENDMENT) ACT, 1991

[Act No. 1 of 1991]

[15th January, 1991]

AN ACT

further to amend the Cantonments Act, 1924.

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

Short
title.
Amend-
ment of
section
27 of Act
2 of 1924.

1. This Act may be called the Cantonments (Amendment) Act, 1991.
2. In section 27 of the Cantonments Act, 1924, in sub-section (1), for the words "twenty-one years", the words "eighteen years" shall be substituted.

Sd/-

B. R. ATRE,

Joint Secretary to the Government of India.

THE TAXATION LAWS (AMENDMENT) ACT, 1991

[Act No. 2 of 1991]

[15th January, 1991]

AN ACT.

further to amend the Finance Act, 1990 and the Income-tax Act, 1961. ...

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

1. This Act may be called the Taxation Laws (Amendment) Act, 1991.

Short
title.

12 of 1990.

2. In section 2 of the Finance Act, 1990 (hereinafter referred to as the principal Act).—

Amend-
ment of
section 2.

(a) in sub-section (5),—

(i) for the words "eight per cent.", wherever they occur, the words "twelve per cent." shall be substituted;

(ii) the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 15th day of October, 1990, namely :—

'Provided that in the case of a contractor, being a domestic company, the provisions of this sub-section shall have effect, as if for the word "eight per cent.", the words "fifteen per cent." had been substituted.';

(b) in sub-section (6),—

(i) for the words "eight per cent.", wherever they occur, the words "twelve per cent." shall be substituted;

(ii) the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 15th day of October, 1990, namely :—

'Provided that in the case of a buyer, being a domestic company, the provisions of this sub-section shall have effect, as if for the words "eight per cent.", the words "fifteen per cent." had been substituted.';

(c) in sub-section (7), in the second proviso, for the words "eight per cent.", the words "fifteen per cent.", shall be substituted and shall be deemed to have been substituted with effect from the 15th day of October, 1990;

(d) in sub-section (8), in the proviso, for the words "eight per cent.", the words "twelve per cent." shall be substituted.

Amend-
ment of
First
Schedule.

3. In the First Schedule to the principal Act,—

(a) in Part II, under the heading "*Surcharge on income-tax*" and the Ord. 3 of entries relating thereto, as they existed immediately before their amendment^{1990.} by the Finance (Second Amendment) Ordinance, 1990, the following proviso shall be inserted, namely:—

"Provided that the income-tax deducted in accordance with the provisions of—

(i) sub-item (a) of item 1 of this Part shall be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent of such income-tax on and from the date the Taxation Laws (Amendment) Act, 1991 receives the assent of the President;

(ii) sub-item (a) of item 2 of this Part shall be increased by a surcharge calculated at the rate of fifteen per cent. of such income-tax with effect from the 15th day of October, 1990.";

(b) in Part III,—

(i) in Paragraph A,—

(1) in Sub-Paragraph I, under the heading "*Surcharge on income tax*", for the words "eight per cent.", the words "twelve per cent. shall be substituted;

(2) in Sub-Paragraph II, under the heading "*Surcharge on income-tax*", for the words "eight per cent.", the words "twelve per cent." shall be substituted;

(ii) in Paragraph B, under the heading "*Surcharge on income-tax*" for the words "eight per cent.", the words "twelve per cent." shall be substituted;

(iii) in Paragraph C,—

(1) in Sub-Paragraph I, under the heading "*Surcharge on income-tax*", for the words "eight per cent.", the words "twelve per cent. shall be substituted;

(2) in Sub-Paragraph II, under the heading "*Surcharge on income-tax*", for the words "eight per cent.", the words "twelve per cent. shall be substituted;

(iv) in Paragraph D, under the heading "*Surcharge on income-tax*" for the words "eight per cent.", the words "twelve per cent." shall be substituted;

(v) in Paragraph E, under the heading "*Surcharge on income-tax*", for the words "eight per cent.", the words "fifteen per cent." shall be substituted and shall be deemed to have been substituted with effect from the 15th day of October, 1990.

48 of 1981.

4. In section 32 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), in sub-section (1), in clause (ii), after the second proviso and before *Explanation 1*, the following proviso shall be inserted, namely:—

"Provided also that, in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1991, the deduction in relation to any block of assets under this clause shall, in the case of a company, be restricted to seventy-five per cent. of the amount calculated at the percentage, on the written down value of such assets, prescribed under this Act immediately before the commencement of the Taxation Laws (Amendment) Act, 1991."

5. In section 234C of the Income-tax Act, in sub-section (1), after the first proviso and before the *Explanation*, the following proviso shall be inserted namely:—

Amendment of section 234C.

"Provided further that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of—

(a) restricting the amount of deduction under the third proviso to clause (ii) of sub-section (1) of section 32;

12 of 1990.

(b) increase in the rate of surcharge under section 2 of the Finance Act, 1990, as amended by the Taxation Laws (Amendment) Act, 1991.

and the assessee has paid the amount of shortfall,—

(i) where it is a domestic company and—

(1) the case falls under clause (a), as part of the instalment of advance tax which is immediately due;

(2) the case falls under clause (b), on or before the 15th day of November, 1990 in respect of the instalment of advance tax due on the 15th day of September, 1990;

(ii) where it is not a domestic company and—

(1) the case falls under clause (a), as part of the instalment of advance tax which is immediately due;

(2) the case falls under clause (b), as part of the instalment of advance tax due on or before the 15th day of March, 1991."

VI—Ex.—8—2

Payment
of sur-
charge.

6. Notwithstanding anything contained in the Income-tax Act,—

(a) the surcharge payable under section 2 of, and Part III of the First Schedule to the principal Act, as amended by this Act,—

(i) in the case of an assessee being a domestic company, shall, in respect of the instalment of "advance tax" paid or payable on or before the 15th day of September, 1990, be payable on or before the 15th day of November, 1990;

(ii) in the case of an assessee not being a domestic company, shall, in respect of the instalment of "advance tax" paid or payable on or before the 15th day of September, 1990 and the 15th day of December, 1990, be payable on or before the 15th day of March, 1991;

(iii) in any case in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act, shall be payable only where such income-tax is so calculated or charged—

(1) in respect of a domestic company, after the 15th day of October, 1990;

(2) in respect of any other assessee, after the date on which this Act receives the assent of the President;

(b) in the case of surcharge deductible under section 2 of, and Part III of the First Schedule to, the principal Act, as amended by this Act, the person responsible for making the payment referred to in sub-section (1) or sub-section (2) or sub-section (2A) or sub-section (2B) of section 192 of the Income-tax Act shall, at the time of making such payment after the date on which this Act receives the assent of the President, adjust any deficiency arising out of any previous deduction resulting on account of the increase in the rate of surcharge.

7. (1) The Finance (Second Amendment) Ordinance, 1990 is hereby repealed.

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

Ord. 8 of
1990.

Repeal
and
saving.

B. R. ATRE,

Joint Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,

Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] MONDAY, APRIL 15, 1991/CHITRA 23, 1913

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

P A R T VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 12th April, 1991.

No. RP/21/91/6-7/91/Research.—The following Acts of Parliament are
re-published for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 23rd January, 1991/Magha 3, 1912 (Saka).

The following Acts of Parliament received the assent of the President on the
22nd January, 1991 and are hereby published for general information :—

9-1

VI-Ex.—9-1

THE PUBLIC LIABILITY INSURANCE ACT, 1991.

[Act No. 6 of 1991]

[22nd January, 1991]

AN ACT

to provide for public liability insurance for the purpose of providing immediate relief to the persons affected by accident occurring while handling any hazardous substance and for matters connected therewith or incidental thereto.

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

Short title
and com-
mence-
ment.

1. (1) This Act may be called the Public Liability Insurance Act, 1991.

(2) It shall come into force on such date as the Central Government may, by notification appoint.

Definitions.

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

(a) “accident” means an accident or incident occurring while handling any hazardous substance;

(b) “Collector” means the Collector having jurisdiction over the area in which the accident occurs;

(c) “handling”, in relation to any hazardous substance, means the manufacture, processing, treatment, package, storage, transportation by vehicle, use, collection, destruction, conversion, offering for sale, transfer or the like of such hazardous substance;

(d) “hazardous substance” means any substance or preparation which is defined as hazardous substance under the Environment (Protection) Act, 1986, and exceeding such quantity as may be specified, by notification, by the Central Government; 29 of 1986.

(e) “insurance” means insurance against liability under sub-section (1) of section 3;

(f) “notification” means a notification published in the Official Gazette;

(g) “owner” means a person who has control over handling any hazardous substance;

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

(i) “rules” means rules made under this Act;

(j) “vehicle” means any mode of surface transport other than railways.

3. (1) Where death or injury to any person (other than a workman) or damage to any property has resulted from an accident, the owner shall be liable to give such relief as is specified in the Schedule for such death, injury or damage.

Liability to give relief in certain cases on principle of no fault.

(2) In any claim for relief under sub-section (1) (hereinafter referred to in this Act as claim for relief), the claimant shall not be required to plead and establish that the death, injury or damage in respect of which the claim has been made was due to any wrongful act, neglect or default of any person.

Explanation.—For the purposes of this section,—

8 of 1923.

(i) “workman” has the meaning assigned to it in the Workmen’s Compensation Act, 1923;

(ii) “injury” includes permanent total or permanent partial disability or sickness resulting out of an accident.

4. (1) Every owner shall take out, before he starts handling any hazardous substance, one or more insurance policies providing for contracts of insurance whereby he is insured against liability to give relief under sub-section (1) of section 3 :

Duty of owner to take out insurance policies.

Provided that any owner handling any hazardous substance immediately before the commencement of this Act shall take out such insurance policy or policies as soon as may be and in any case within a period of one year from such commencement.

(2) Every owner shall get the insurance policy, referred to in sub-section (1), renewed from time to time before the expiry of the period of validity thereof so that the insurance policies may remain in force throughout the period during which such handling is continued.

(3) The Central Government may, by notification, exempt from the operation of sub-section (1) any owner, namely :—

(a) the Central Government;

(b) any State Government;

(c) any corporation owned or controlled by the Central Government or a State Government; or

(d) any local authority :

Provided that no such order shall be made in relation to such owner unless a fund has been established and is maintained by that owner in accordance with the rules made in this behalf for meeting any liability under sub-section (1) of section 3.

Verifica-
tion and
publication
of accident
by Collector.

5. Whenever it comes to the notice of the Collector that an accident has occurred at any place within his jurisdiction, he shall verify the occurrence of such accident and cause publicity to be given in such manner as he deems fit for inviting applications under sub-section (1) of section 6.

Application
for claim
for relief.

6. (1) An application for claim for relief may be made—

- (a) by the person who has sustained the injury;
- (b) by the owner of the property to which the damage has been caused;
- (c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or
- (d) by any agent duly authorised by such person or owner of such property or all or any of the legal representatives of the deceased, as the case may be :

Provided that where all the legal representatives of the deceased have not joined in any such application for relief, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined shall be impleaded as respondents to the application.

(2) Every application under sub-section (1) shall be made to the Collector and shall be in such form, contain such particulars and shall be accompanied by such documents as may be prescribed.

(3) No application for relief shall be entertained unless it is made within five years of the occurrence of the accident.

Award of
relief.

7. (1) On receipt of an application under sub-section (1) of section 6, the Collector shall, after giving notice of the application to the owner and after giving the parties an opportunity of being heard, hold an inquiry into the claim or each of the claims, and may make an award determining the amount of relief which appears to him to be just and specifying the person or persons to whom such amount of relief shall be paid.

(2) The Collector shall arrange to deliver copies of the award to the parties concerned expeditiously and in any case within a period of fifteen days from the date of the award.

(3) When an award is made under this section, the owner or the insurer, as the case may be, who is required to pay any amount in terms of such award shall, within thirty days of the date of the announcement of the award, deposit the entire amount so awarded in such manner as the Collector may direct.

(4) In holding any inquiry under sub-section (1), the Collector may, subject to any rules made in this behalf, follow such summary procedure as he thinks fit.

(5) The Collector shall have all the powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed; and the Collector shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

2 of 1974.

(6) Where the insurer or the owner against whom the award is made under sub-section (1) fails to deposit the amount of such award within the period specified under sub-section (3), such amount shall be recoverable from the owner, or as the case may be, the insurer as arrears of land revenue or of public demand.

(7) A claim for relief in respect of death of, or injury to, any person or damage to any property shall be disposed of as expeditiously as possible, and every endeavour shall be made to dispose of such claim within three months of the receipt of the application for relief under sub-section (1) of section 6.

8. (1) The right to claim relief under sub-section (1) of section 3 in respect of death of, or injury to, any person or damage to any property shall be in addition to any other right to claim compensation in respect thereof under any other law for the time being in force.

Provisions as to other right to claim compensation for death etc.

(2) Notwithstanding anything contained in sub-section (1), where in respect of death of, or injury to, any person or damage to any property, the owner, liable to give claim for relief, is also liable to pay compensation under any other law, the amount of such compensation shall be reduced by the amount of relief paid under this Act.

9. Any person authorised by the Central Government may, for the purposes of ascertaining whether any requirements of this Act or of any rule or of any direction given under this Act have been complied with, require any owner to submit to that person such information as that person may reasonably think necessary.

Power to call for information.

10. Any person, authorised by the Central Government in this behalf, shall have a right to enter, at all reasonable times with such assistance as he considers necessary, any place, premises or vehicle where hazardous substance is handled for the purpose of determining whether any provisions of this Act or of any rule or of any direction given under this Act is being or has been complied with and such owner is bound to render all assistance to such person.

Power of entry and inspection.

11. (1) If a person, authorised by the Central Government in this behalf, has reason to believe that handling of any hazardous substance is taking place in any place, premises or vehicle, in contravention of sub-section (1) of section 4, he may enter into and search such place, premises or vehicle for such handling of hazardous substance.

Power of search and seizure.

(2) Where, as a result of any search under sub-section (1) any handling of hazardous substance has been found in relation to which contravention of sub-section (1) of section 4 has taken place, he may seize such hazardous substance and other things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act :

Provided that where it is not practicable to seize any such substance or thing, he may serve on the owner an order that the owner shall not remove, part with, or otherwise deal with, the hazardous substance and such other things except with the previous permission of that person.

(3) He may, if he has reason to believe that it is expedient so to do to prevent an accident dispose of the hazardous substance seized under sub-section (2) immediately in such manner as he may deem fit.

(4) All expenses incurred by him in the disposal of hazardous substances under sub-section (3) shall be recoverable from the owner as arrears of land revenue or of public demand.

Power to
give direc-
tions.

12. Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in exercise of its powers and performance of its functions under this Act, issue such directions in writing as it may deem fit for the purpose of this Act to any owner or any person, officer, authority or agency and such owner, person, officer, authority or agency shall be bound to comply with such directions.

Explanation.—For the removal of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

- (a) prohibition or regulation of the handling of any hazardous substance; or
- (b) stoppage or regulation of the supply of electricity, water or any other service.

Power
to make
application
to courts
for restrain-
ing owner
from hand-
ling hazar-
dous sub-
stances.

13. (1) If the Central Government or any person authorised by that Government in this behalf has reason to believe that any owner has been handling any hazardous substance in contravention of any of the provisions of this Act, that Government or, as the case may be, that person may make an application to a Court, not inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of first-class for restraining such owner from such handling.

(2) On receipt of the application under sub-section (1), the Court may make such order as it deems fit.

(3) Where under sub-section (2) the Court makes an order restraining any owner from handling hazardous substance, it may, in that order—

- (a) direct such owner to desist from such handling;

(b) authorise the Central Government or, as the case may be, the person referred to in sub-section (1), if the direction under clause (a) is not complied with by the owner to whom such direction is issued, to implement the direction in such manner as may be specified by the Court.

(4) All expenses incurred by the Central Government, or as the case may be, the person in implementing the directions of Court under clause (b) of sub-section (3), shall be recoverable from the owner as arrears of land revenue or of public demand.

14. (1) Whoever contravenes any of the provisions of sub-section (1) or sub-section (2) of section 4 or fails to comply with any direction issued under section 12, he shall be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years, or with fine which shall not be less than one lakh rupees, or with both.

Penalty for contravention of sub-section (1) or sub-section (2) of section 4 or failure to comply with directions under section 12.

(2) Whoever, having already been convicted of an offence under sub-section (1), is convicted for the second offence or any offence subsequent to the second offence, he shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine which shall not be less than one lakh rupees.

2 of 1974.
20 of 1958.

(3) Nothing contained in section 360 of the Code of Criminal Procedure, 1973 or in the Probation of Offenders Act, 1958, shall apply to a person convicted of an offence under this Act unless such person is under eighteen years of age.

15. If any owner fails to comply with direction issued under section 9 or fails to comply with order issued under sub-section (2) of section 11, or obstructs any person in discharge of his functions under section 10 or sub-section (1) or sub-section (3) of section 11, he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to ten thousand rupees, or with both.

Penalty for failure to comply with direction under section 9 or order under section 11 or obstructing any person in discharge of his functions under section 10 or 11.

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

Offences by companies

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

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

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

Offences by
Government De-
partments

17. Where an offence under this Act has been committed by any Department of Government, the Head of the Department 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 section shall render such Head of the Department 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.

Cognizance
of offences

18. No court shall take cognizance of any offence under this Act except on a complaint made by—

(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

(b) any person who has given notice of not less than sixty days in the manner prescribed, of the alleged offence and of his intention to make a complaint to the Central Government, or the authority or officer authorised as aforesaid.

Power to
delegate.

19. The Central Government may, by notification, delegate, subject to such condition and limitations as may be specified in the notification, such of its powers and functions under this Act (except the power under section 23) as it may deem necessary or expedient to any person (including any officer, authority or other agency).

Protection
of action
taken in
good faith.

20. No suit, prosecution or other legal proceeding shall lie against the Government or the person, officer, authority or other agency in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules made or orders or directions issued thereunder.

21. (1) The Central Government may, from time to time, constitute an Advisory Committee on the matters relating to the insurance policy under this Act. Advisory Committee.

(2) The Advisory Committee shall consist of—

- (a) three officers representing the Central Government;
- (b) two persons representing the insurers;
- (c) two person representing the owners; and
- (d) two persons from amongst the experts of insurance or hazardous substances.

to be appointed by the Central Government.

(3) The Chairman of the Advisory Committee shall be one of the members representing the Central Government, nominated in this behalf by that Government.

22. The provisions of this Act and any rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law. Effect of other laws.

23. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act. Power to make rules.

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

- (a) establishment and maintenance of fund under sub-section (3) of section 4;
- (b) the form of application and the particulars to be given therein and the documents to accompany such application under sub-section (2) of section 6;
- (c) the procedure for holding an inquiry under sub-section (4) of section 7;
- (d) the purposes for which the Collector shall have powers of a Civil Court under sub-section (5) of section 7;
- (e) the manner in which notice of the offence and of the intention to make a complaint to the Central Government shall be given under clause (b) of section 18;
- (f) any other matter which is required to be, or may be, prescribed.

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

VI-Ex. 9-3

in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[See section 3 (I)]

(i) Reimbursement of medical expenses incurred up to a maximum of Rs. 12,500 in each case.

(ii) For fatal accidents the relief will be Rs. 25,000 per person in addition to reimbursement of medical expenses, if any, incurred on the victim up to a maximum of Rs. 12,500.

(iii) For permanent total or permanent partial disability or other injury or sickness, the relief will be (a) reimbursement of medical expenses incurred, if any, up to maximum of Rs. 12,500 in each case and (b) cash relief on the basis of percentage of disablement as certified by an authorised physician. The relief for total permanent disability will be Rs. 25,000.

(iv) For loss of wages due to temporary partial disability which reduces the earning capacity of the victim, there will be a fixed monthly relief not exceeding Rs. 1,000 per month up to a maximum of 3 months; provided the victim has been hospitalised for a period exceeding 3 days and is above 16 years of age.

(v) Up to Rs. 6,000, depending on the actual damage, for any damage to private property.

Sd/—

K. L. MOHANPURIA,

Additional Secretary to the Government of India.

THE SALARY AND ALLOWANCES OF LEADERS OF OPPOSITION
IN PARLIAMENT (AMENDMENT) ACT, 1991.

[Act No. 7 of 1991]

[22nd January, 1991]

AN ACT

*further to amend the Salary and Allowances of Leaders of Opposition in
Parliament Act, 1977.*

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

1. (1) This Act may be called the Salary and Allowances of Leaders of Opposition in Parliament (Amendment) Act, 1991.

Short
title and
commence-
ment.

(2) It shall be deemed to have come into force on the 1st day of October, 1990.

31 of 1977. 2. In section 8 of the Salary and Allowance of Leaders of Opposition in Parliament Act, 1977 (hereinafter referred to as the principal Act), in sub-section (2),—

Amend-
ment of
section 8.

(a) for the words “three hundred rupees”, the words “three thousand rupees” shall be substituted;

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

“Provided that where a Leader of the Opposition is provided with conveyance facility with a driver for the purposes of security or otherwise for any period, he shall not be entitled to the conveyance allowance for that period.”

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

Insertion
of new
Section 8A

“8A. There may be paid to a Leader of the Opposition, by way of a repayable advance, such sum of money as may be prescribed by rules made in this behalf by the Central Government for the purchase of a motor car in order that he may be able to discharge conveniently and efficiently the duties of his office.”

Advance to
Leader of
Opposition
for purchase
of motor
car.

Amend-
ment of
section 10.

4. In section 10 of the principal Act, in sub-section (2), after clause (d), the following clause shall be inserted, namely :—

“(e) the advance payable to a Leader of the Opposition under section 8A.”

Sd/-

K. L. MOHANPURIA,

Additional Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,

Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] FRIDAY, APRIL 19, 1991/CAITRA 29, 1913

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

P A R T VI

Act of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, dated the 18th April, 1991.

No. RP/22/91/8-11/91/Research.—The following Acts of Parliament are
 re-published for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 25th January, 1991/Magha, 5, 1912 (*Saka*)

The following Acts of Parliament received the assent of the President on
 the 25th January, 1991 and are hereby published for general information :—

THE RESERVE BANK OF INDIA (AMENDMENT) ACT, 1991.

[Act No. 8 of 1991]

[25th January, 1991]

AN ACT

further to amend the Reserve Bank of India Act, 1934.

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

10—1

VI-Extra-10-1

Short
title and
commen-
cement.

1. (1) This Act may be called the Reserve Bank of India (Amendment) Act, 1991.

(2) It shall be deemed to have come into force on the 15th day of October, 1990.

Amend-
ment of
section 33
of Act 2
of 1934.

2. In the Reserve Bank of India Act, 1934 (hereinafter referred to as the principal Act), in section 33, in sub-section (4), for the figures and words "0.118489 grammes of fine gold per rupee", the words "a price not exceeding the international market price for the time being obtaining" shall be substituted.

Repeal and
saving.

3. (1) The Reserve Bank of India (Amendment) Ordinance, 1990, is hereby repealed.

Ord. of
1990.

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

Sd/-

K. L. MOHANPURIA,
Additional Secretary to the Government
of India.

THE RESERVE BANK OF INDIA (SECOND AMENDMENT) ACT, 1991.

[Act No. 9 of 1991]

[25th January, 1991]

AN ACT

further to amend the Reserve Bank of India Act, 1934.

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

1. This Act may be called the Reserve Bank of India (Second Amendment) Act, 1991.

Short
title.

2. In section 42 of the Reserve Bank of India Act, 1934,—

Amend-
ment of
section 42
of Act 2
of 1934.

(a) in the proviso to sub-section (1), for the words "fifteen per cent.", the words "twenty per cent." shall be substituted;

(b) in sub-section (1A), for the words "fifteen per cent.", the words "twenty per cent." shall be substituted.

Sd/-

K. L. MOHANPURIA,
Addl. Secretary to the Government
of India.

THE CHIEF ELECTION COMMISSIONER AND OTHER ELECTION
COMMISSIONERS (CONDITIONS OF SERVICE) ACT, 1991.

[Act No. 11 of 1991]

[25th January, 1991]

AN ACT

to determine the conditions of service of the Chief Election Commissioner and other Election Commissioners and for matters connected therewith or incidental thereto.

BE enacted by Parliament in the Forty-first Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. This Act may be called the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Act, 1991.

Short
title.

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

Definitions.

(a) "Chief Election Commissioner" means the Chief Election Commissioner appointed under article 324 of the Constitution;

(b) "Election Commissioner" means any other Election Commissioner appointed under article 324 of the Constitution.

CHAPTER II

SALARY AND OTHER CONDITIONS OF SERVICE OF THE CHIEF ELECTION
COMMISSIONER AND ELECTION COMMISSIONERS

3. (1) There shall be paid to the Chief Election Commissioner a salary which is equal to the salary of a Judge of the Supreme Court.

Salary.

(2) There shall be paid to an Election Commissioner a salary which is equal to the salary of a Judge of a High court :

Provided that if a person who, immediately before the date of assuming office as the Chief Election Commissioner or, as the case may be, an Election Commissioner, was in receipt of, or, being eligible so to do, had elected to draw, a pension (other than a disability or wound pension) in respect of any previous service under the Government of the Union or under the Government of a State, his salary in respect of service as the Chief Election Commissioner or, as the case may be, an Election Commissioner shall be reduced—

VI-Ex—10-2

(a) by the amount of that pension; and

(b) if he had, before assuming office, received, in lieu of a portion of the pension, due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

Term of
office.

4. The Chief Election Commissioner or an Election Commissioner shall hold office for a term of six years from the date on which he assumes his office :

Provided that where —

(i) the Chief Election Commissioner attains the age of sixty-five years; or

(ii) an Election Commissioner attains the age of sixty-two years, before the expiry of the said term of six years, he shall vacate his office on the date on which he attains the said age :

Provided further that the Chief Election Commissioner or an Election Commissioner may, at any time, by writing under his hand addressed to the President, resign his office.

Explanation.—For the purpose of this section, the term of six years in respect of the Chief Election Commissioner or an Election Commissioner holding office immediately before the commencement of this Act, shall be computed from the date on which he had assumed office.

Leave.

5. (1) A person who, immediately before the date of assuming office as the Chief Election Commissioner or an Election Commissioner, was in service of Government may be granted during his tenure of office but not thereafter, leave in accordance with the rules for the time being applicable to the Service to which he belonged before such date and he shall be entitled to carry forward the amount of leave standing at his credit on such date, notwithstanding anything contained in section 6.

(2) Any other person who is appointed as the Chief Election Commissioner or an Election Commissioner may be granted leave in accordance with such rules as are for the time being applicable to a member of the Indian Administrative Service.

(3) The power to grant or refuse leave to the Chief Election Commissioner or an Election Commissioner and to revoke or curtail leave granted to him, shall vest in the President.

Pension
payable to
Election
Commissioners.

6. (1) A person who, immediately before the date of assuming office as the Chief Election Commissioner or an Election Commissioner was in service of Government, shall be deemed to have retired from service on the date on which he enters upon office as the Chief Election Commissioner or an Election Commissioner but his subsequent service as the Chief Election Commissioner or an Election Commissioner shall be, reckoned as continuing approved service counting for pension in Service to which he belonged.

(2) Where the Chief Election Commissioner demits office [whether in any manner specified in sub-section (4) or by resignation], he shall, on such demission be entitled to—

41 of 1963.

(a) a pension which is equal to the pension payable to a Judge of the Supreme Court in accordance with the provisions of Part III of the Schedule to the Supreme Court Judges (Conditions of Service) Act, 1958, as amended from time to time; and

(b) such pension (including commutation of pension), family pension and gratuity as are admissible to a Judge of the Supreme Court under the said Act and the rules made thereunder, as amended from time to time.

(3) Where an Election Commissioner demits office [whether in any manner specified in sub-section (4) or by resignation], he shall, on such demission, be entitled to—

28 of 1954.

(a) a pension which is equal to the pension payable to a Judge of a High Court in accordance with the provisions of Part III of the First Schedule, to the High Court Judges (Conditions of Service) Act, 1954, as amended from time to time; and

(b) such pension (including commutation of pension), family pension and gratuity as are admissible to a Judge of a High Court under the said Act and the rules made thereunder, as amended from time to time.

(4) Except where the Chief Election Commissioner or an Election Commissioner demits office by resignation, he shall be deemed, for the purpose of this Act, to have demitted his office if, and only if,—

(a) he has completed the term of office specified in section 4, or

(b) he has attained the age of sixty-five years, or as the case may be, sixty-two years, or

(c) his demission of office is medically certified to be necessitated by ill-health.

7. Every person holding office as the Chief Election Commissioner or an Election Commissioner shall be entitled to subscribe to the General Provident Fund (Central Services).

Right to
subscribe
to General
Provident
Fund.

8. Save as otherwise provided in this Act, the conditions of service relating to travelling allowance, provision of rent-free residence and exemption from payment of income-tax on the value of such rent-free residence, conveyance facilities, sumptuary allowance, medical facilities and such other conditions of service as are, for the time being, applicable to,—

Other
Conditions
of service.

(i) a Judge of the Supreme Court under Chapter IV of the Supreme Court Judges (Conditions of Service) Act, 1958 and the rules made thereunder, shall, so far as may be, apply to the Chief Election Commissioner;

41 of 1958.

(ii) a Judge of a High Court under Chapter IV of the High Court Judges (Conditions of Service) Act, 1954 and the rules made thereunder, shall, so far as may be, apply to an Election Commissioner.

28 of 1954.

Sd/-

K. L. MOHANPURIA,
Addl. Secretary to the Government
of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] TUESDAY, MAY 28, 1991/JYAISTHA 7, 1913

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

P A R T VI

Act of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 28th May, 1991.

No. RP/39/91/Ordi-3/91/Research.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 19th April, 1991 is republished for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 19th April, 1991/Chaitra 29, 1913 (Saka)

**THE CONSTITUTION (SCHEDULED TRIBES)
 ORDERS (AMENDMENT) ORDINANCE, 1991**

No. 3 OF 1991

Promulgated by the President in the Forty-second Year of
 the Republic of India.

An Ordinance to provide for the inclusion of certain tribes in the lists of Scheduled Tribes specified in relation to the States of Karnataka and Jammu and Kashmir.

WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title 1. (1) This Ordinance may be called the Constitution (Scheduled Tribes) and com- Orders (Amendment) Ordinance, 1991.
mencement.

(2) It shall come into force at once.

Amendm- 2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in
ent of the "PART VI—Karnataka", in item 38, the following words shall be included at the
Scheduled end, namely:—
Tribes
Order,
1950.

"Naik, Nayak, Beda, Bedar and Valmiki".

Amendm- 3. In the Schedule to the Constitution (Jammu and Kashmir) Scheduled
ent of the Tribes Order, 1989, after item 8, the following items shall be inserted, namely:—
Jammu
and Kash-
mir (Sche-
duled Tri-
bes). Order,
1989.

"9. Gujar

10. Bakarwal".

R. VENKATARAMAN,
President.

B. S. SALUJA,
Joint Secretary to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII]

THURSDAY, MAY 30, 1991/JYAISTHA 9, 1913

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

P A R T VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, dated the 30th May, 1991.

No. RP/38/91/Ord. 2/91/Research.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 18th April, 1991 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 18th April, 1991/Chaitra 28, 1913 (Saka)

**THE REPRESENTATION OF THE PEOPLE (AMENDMENT)
 ORDINANCE, 1991.**

No. 2 of 1991

Promulgated by the President in the Forty-second year
 of the Republic of India.

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

WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

12-1

VI-Extra-12-1

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title
and
commence-
ment.

1. (1) This Ordinance may be called the Representation of the People (Amendment) Ordinance, 1991.

(2) It shall come into force at once.

Substitution
of new
section for
sections
73A and
73AA.

2. In the Recommendation of the People Act, 1951, for sections 73A and 73AA, ^{43 of} 1951, the following section shall be substituted, namely:—

Special
provision
as to
certain
elections.

“73A. Notwithstanding anything contained in section 73 or in any other provision of this Act, with respect to the general election for the purpose of constituting a new House of the People upon dissolution of the Ninth House of the People,—

(a) the notification under section 73 may be issued without taking into account the Parliamentary constituencies in the State of Jammu and Kashmir; and

(b) the Election Commission may take the steps in relation to elections from the Parliamentary constituencies in the State of Jammu and Kashmir separately and in such manner and on such date or dates as it may deem appropriate.”

R. VENKATARAMAN,
President.

K. L. MOHANPURIA,
Additional Secretary to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, AUGUST 1, 1991/SRAVANA 10, 1913

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

P A R T VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 1st August, 1991.

No. RP/45/91/Ord. 4/91/Research:—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II Section I, dated the 2nd May, 1991 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 2nd May, 1991/Vaisakha 12, 1913 (Saka)

**THE CODE OF CRIMINAL PROCEDURE (AMENDMENT)
 ORDINANCE, 1991**

No. 4 of 1991

Promulgated by the President in the Forty-second Year of the Republic of India.

An Ordinance further to amend the Code of Criminal Procedure, 1973.

WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

13-1

VI—Extra—13

Short title
and com-
mence-
ment.

1. (1) This Ordinance may be called the Code of Criminal Procedure (Amendment) Ordinance, 1991.

(2) It shall come into force at once.

Amend-
ment of
section
197.

2. In section 197 of the Code of Criminal Procedure, 1973, --

2 of 1974.

(a) in sub-section (1), to clause (b), the following proviso shall be added, namely:—

“Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression “State Government” occurring therein, the expression “Central Government” were substituted.”;

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

“(3A) Notwithstanding anything contained in sub-section (3), no court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government.”.

R. VENKATARAMAN,
President.

K. L. MOHANPURIA,
Additional Secretary to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] FRIDAY, AUGUST 23, 1991/BHADRA 1, 1913

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

P A R T VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 22nd August, 1991.

No. RP/55/91/Ord. 5/91/Research.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 2nd May, 1991, is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 2nd May, 1991/Vaisakha 12, 1913 (Saka)

**THE TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION)
AMENDMENT ORDINANCE, 1991.**

NO. 5 of 1991.

Promulgated by the President in the Forty-second Year of the Republic of India.

*An Ordinance further to amend the Terrorist and Disruptive Activities
(Prevention) Act, 1987.*

WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

14-1

VI- Extra—14

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

Short title 1. (1) This Ordinance may be called the Terrorist and Disruptive Activities and com- (Prevention) Amendment Ordinance, 1991.

mence
ment.

(2) It shall come into force at once.

Amend- 2. In the Terrorist and Disruptive Activities (Prevention) Act, 1987, in sub-
ment of section (4) of section 1, for the words "four years", the words "six years" shall
section 1 be substituted.
of Act 28
of 1987.

R. VENKATARAMAN,
President.

K. L. MOHANPURIA,
Additional Secretary to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] TUESDAY, SEPTEMBER 3, 1991/BHADRA 12, 1913

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 3rd September, 1991.

No. RP/46/91/Consti-68/Research.— The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE.

(Legislative Department)

New Delhi, the 12th March, 1991/Falgun 21, 1912 (Saka)

The following Act of Parliament received the assent of the President on the 12th March, 1991 and is hereby published for general information:

THE CONSTITUTION (SIXTY-EIGHTH AMENDMENT) ACT, 1991

[12th March, 1991]

AN ACT

further to amend the Constitution of India.

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

15-1

VI-Extra-15

Short title. 1. This Act may be called the Constitution (Sixty-eighth Amendment) Act, 1991.

Amendment of article 356. 2. In article 356 of the Constitution, in clause (4), in the third proviso, for the words "four years", the words "five years" shall be substituted.

Sd/-

K. L. MOHANPURIA,
Addl. Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] THURSDAY, SEPTEMBER 19, 1991/BHADRA 28, 1913

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

P A R T VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 19th September, 1991.

No. RP/53/91/Ordi. 6/91/Research; -The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 15th June, 1991 is republished for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 15th June, 1991/Jyaistha 25, 1913 (Saka)

THE CONSUMER PROTECTION (AMENDMENT) ORDINANCE, 1991

No. 6 of 1991

Promulgated by the President in the Forty-second Year of the
Republic of India.

An Ordinance to amend the Consumer Protection Act, 1986.

WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

16-1

VI—Extra—16

Now, ~~THEREFORE~~, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance.

Short title.
and
commence-
ment.

1. (1) This Ordinance may be called the Consumer Protection (Amendment) Ordinance, 1991.

(2) It shall come into force at once.

Amend-
ment of
section
14.

2. In section 14 of the Consumer Protection Act, 1986 (hereinafter referred to as the principal Act), for sub-section (2), the following sub-sections shall be substituted, namely—

68 of 1986.

“(2) Every proceeding referred to in sub-section (1) shall be conducted by the President of the District Forum and at least one member thereof sitting together.

Provided that where the member, for any reason, is unable to conduct the proceeding till it is completed, the President and the other members shall conduct such proceeding *de novo*.

(2A) Every order made by the District Forum under sub-section (1) shall be signed by its President and the member or members who conducted the proceeding.

Provided that where the proceeding is conducted by the President and one member and they differ on any point or points, they shall state the point or points on which they differ and refer the same to the other member for hearing on such point or points and such point or points shall be decided according to the opinion of that other member.”

Insertion
of new
section
18A.

3. After section 18 of the principal Act, the following section shall be inserted, namely—

Appoint-
ment of
acting
President.

“18A When the office of the President of the District Forum or of the State Commission, as the case may be, is vacant or when any such President is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such person, who is qualified to be appointed as President of the District Forum or, as the case may be, of the State Commission, as the State Government may appoint for the purpose.”

Insertion
of new
section
29A.

4. After section 29 of the principal Act, the following section shall be inserted, namely—

"29A. No act or proceeding of the District Forum, State Commission or the National Commission shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof."

Vacancies of defects in appointment not to invalidate orders,

5. Notwithstanding anything contained in any law or any judgment, decree or order of any court or tribunal or other authority, any order made by the District Forum or the State Commission under the principal Act, which would have been validly made if the amendments made to the principal Act by this Ordinance were in force on the date of such order, shall be deemed to have been validly made as if the amendments made to the principal Act by this Ordinance were in force at all material times when such order was made.

Validation of certain orders, etc.

R. VENKATARAMAN,
President.

K. L. MOHANPURIA,
Additional Secretary to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXII] TUESDAY, SEPTEMBER. 24, 1991/ASVINA 2, 1913

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

P A R T VI

Act of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 20th September, 1991.

No. RP/47/91/18/91/Research.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 14th March, 1991/Falguna 23, 1912 (Saka).

The following Act of Parliament received the assent of the President on the 14th March, 1991 and is hereby published for general information :

THE FINANCE ACT, 1991

[Act No. 18 of 1991]

[14th March, 1991]

AN ACT

to continue for the financial year 1991-92 the existing rates of income-tax and to provide for the continuance of the provisions relating to auxiliary duties of customs and special duties of excise for the said year.

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

17—1

VI-Extra-17-1

Short
title
and com-
mence-
ment.

Income-
tax.

1. (1) This Act may be called the Finance Act, 1991.

(2) Save as otherwise provided in this Act, section 2 shall come into force on the 1st day of April, 1991.

2. The provisions of section 2 of, and the First Schedule to, the Finance Act, 1990, shall apply in relation to income-tax for the assessment year or, as the case may be, the financial year commencing on the 1st day of April, 1991, as they apply in relation to income-tax for the assessment year or, as the case may be, the financial year commencing on the 1st day of April, 1990, with the following modifications, namely:—

12 of 1990.

(a) in section 2,—

(i) for the figures “1990”, wherever they occur, the figures “1991” shall be substituted;

(ii) in sub-section (1), after the words “the First Schedule and”, the words, figures, letter and brackets “such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act)” shall be inserted;

43 of 1961.

(iii) in sub-section (2),—

(A) for the words “eighteen thousand rupees”, wherever they occur, the words “twenty-two thousand rupees” shall be substituted;

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

“Provided that the amount of income-tax so arrived at, as reduced by the rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, shall, in the case of every person having a total income exceeding seventy-five thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax and the sum so arrived at shall be the income-tax in respect of the total income.”;

(iv) in sub-section (3),—

(A) the figures, brackets and words, “1961 (hereinafter referred to as the Income-tax Act)” shall be omitted;

43 of 1961.

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

“Provided that in respect of any income chargeable to tax under section 115-B or section 115-BB of the Income-tax Act,—

(a) the income-tax computed under section 115-B shall be increased by a surcharge calculated at the rate of fifteen per cent. of such income-tax; and

(b) the income-tax computed under section 115-BB shall be increased,—

(i) in the case of a person other than a company, being a resident in India, by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax; and

(ii) in the case of a domestic company, by a surcharge calculated at the rate of fifteen per cent. of such income-tax.”;

(v) in sub-section (7), after the word, figures and letter “Chapter VIII-A”, the words “of the said Act” shall be inserted;

(vi) in sub-section (8), for the proviso, the following proviso shall be substituted, namely:—

‘Provided that the amount of income-tax or “advance tax” so arrived at, as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act, shall, in the case of every person having a total income exceeding seventy-five thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax or, as the case may be, “advance tax” and, the sum so arrived at shall be the income-tax or, as the case may be “advance tax” in respect of the total income.’;

(b) in the First Schedule,—

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

PART I

INCOME-TAX

Paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vi) of clause (31) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 22,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 22,000 but does not exceed Rs. 30,000 | 20 per cent. of the amount by which the total income exceeds Rs. 22,000; |
| (3) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000 | Rs. 1,600 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 30,000; |
| (4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000 | Rs. 7,600 <i>plus</i> 40 per cent. of the amount by which the total income exceeds Rs. 50,000; |
| (5) where the total income exceeds Rs. 1,00,000 | Rs. 27,600 <i>plus</i> 50 per cent. of the amount by which the total income exceeds Rs. 1,00,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall,—

(i) in the case of every individual, Hindu undivided family or association of persons or body of individuals referred to in sections 88 and 88A having a total income exceeding seventy-five thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced;

(ii) in the case of every person, other than those mentioned in item (i), having a total income exceeding seventy-five thousand rupees,

be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that no such surcharge shall be payable by a non-resident.

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1991 exceeds Rs. 22,000,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 12,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 12,000 but does not exceed Rs. 20,000 | 25 per cent. of the amount by which the total income exceeds Rs. 12,000; |

- | | |
|--|---|
| (3) where the total income exceeds Rs. 20,000 but does not exceed Rs. 40,000 | Rs. 2,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 20,000; |
| (4) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000 | Rs. 8,000 <i>plus</i> 40 per cent. of the amount by which the total income exceeds Rs. 40,000; |
| (5) where the total income exceeds Rs. 60,000 but does not exceed 1,00,000 | Rs. 16,000 <i>plus</i> 50 per cent. of the amount by which the total income exceeds Rs. 60,000; |
| (6) where the total income exceeds Rs. 1,00,000 | Rs. 36,000 <i>plus</i> 55 per cent. of the amount by which the total income exceeds Rs. 1,00,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding seventy-five thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A and the income-tax as so reduced be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that no such surcharge shall be payable by a non-resident.

Paragraph B

In the case of every co-operative society:—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) Where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 <i>plus</i> 35 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall, in the case of every person having a total income exceeding seventy-five thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax.

VI-Extra-2

*Paragraph C**Sub-Paragraph 1*

In the case of every registered firm, not being a case to which Sub-Paragraph II of this Paragraph applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 15,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 15,000 but does not exceed Rs. 50,000 | 6 per cent. of the amount by which the total income exceeds Rs. 15,000; |
| (3) Where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000 | Rs. 2,100 <i>plus</i> 12 per cent. of the amount by which the total income exceeds Rs. 50,000; |
| (4) where the total income exceeds Rs. 1,00,000 | Rs. 8,100 <i>plus</i> 18 per cent. of the amount by which the total income exceeds Rs. 1,00,000. |

Surcharge on income-tax

The amount of income tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding seventy-five thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve percent of such income tax.

Sub-Paragraph II

In the case of every registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent. of such total income,—

Rates of income-tax.

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 15,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 15,000 but does not exceed Rs. 50,000 | 5 per cent. of the amount by which the total income exceeds Rs. 15,000 |
| (3) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000 | Rs. 1,750 <i>plus</i> 10 per cent. of the amount by which the total income exceeds Rs. 50,000; |
| (4) where the total income exceeds Rs. 1,00,000 | Rs. 6,750 <i>plus</i> 15 per cent. of the amount by which the total income exceeds Rs. 1,00,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall in the case of every person having a total income exceeding seventy-five thousand rupees be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent of such income-tax.

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

Paragraph D

In the case of every local authority.—

Rate of income-tax

On the whole of the total income 50 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall in the case of every person having a total income exceeding seventy-five thousand rupees be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax.

Paragraph E

In the case of a company —

Rates of Income-tax

I. In the case of a domestic company —

(1) where the company is a company in which the public are substantially interested 40 per cent. of the total income;

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

(i) in the case of a trading company or an investment company. 50 per cent of the total income ;

(ii) in any other case 45 per cent. of the total income.

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

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

(a) royalties received from Government or any Indian concern in pursuance of an agreement made by it with the

Government or the Indian concern after the 31st day of March 1961 but before the 1st day of April 1976 or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976

and where such agreement has in either case been approved by the Central Government 50 per cent.

(ii) on the balance if any of the total income 65 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the provisions of item I of the Paragraph shall in the case of every person having a total income exceeding seventy-five thousand rupees be increased by a surcharge calculated at the rate of fifteen per cent. of such income-tax.

(ii) in Part II for the heading "*Surcharge on income-tax*" and the entries there under, the following shall be substituted namely:—

"Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of—

(a) sub-item (a) of item 1 of this Part shall be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent of such income-tax, and

(b) subitem (a) of item 2 of this Part shall be increased by a surcharge calculated at the rate of fifteen per cent. of such income-tax";

(iii) in Part III, in Sub-Paragraph II of Paragraph A for the figures "1991" the figures "1992" shall be substituted;

(iv) in Part IV in Rule 9—

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

"(1) Where the assessee has in the previous year relevant to the assessment year commencing on the 1st day of April, 1991, any agricultural income and

the net result of the computation of the agricultural income of the assessee for any one or more of the previous year relevant to the assessment years commencing on the 1st day of April 1983 or the 1st day of April 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990, is a loss; then, for the purposes of sub-section (2) of section 2 of this Act.—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1983, to the extent, if any, such loss has not been set off against agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1984, to the extent if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1985, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990.

(iv) the loss so computed for the previous year relevant to the assessment year, commencing on the 1st day of April, 1986, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1987, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1988, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1989 or the 1st day of April, 1990,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1989, to the extent, if

any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1990, and

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1990.

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1991.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991, is a loss, then, for the purposes of sub-section (8) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1984, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991.

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1985, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991.

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1986, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991.

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1987, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991.

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1988, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991.

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1989, to the extent. If any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1990 or the 1st day of April, 1991.

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April 1990, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, and

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991.

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1992.”;

(B) for sub-rule (5), the following sub-rule shall be substituted, namely:—

“(5) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1983 or of the First Schedule to the Finance Act, 1984, or of the First Schedule to the Finance Act, 1985, or of the First Schedule to the Finance Act, 1986, or of the First Schedule to the Finance Act, 1987, or of the First Schedule to the Finance Act, 1988, or of the First Schedule to the Finance Act, 1989, or of the First Schedule to the Finance Act, 1990, shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).”.

11 of 1983.
21 of 1984.
32 of 1985.
23 of 1986.
11 of 1987.
26 of 1988.
13 of 1989.
12 of 1990.

51 of 1975.

52 of 1962.

10 of 1897.

3. (1) In the case of goods mentioned in the First Schedule to the Customs Tariff Act, 1975 or in the Schedule, as amended from time to time, there shall be levied and collected as an auxiliary duty of customs an amount equal to fifty per cent. of the value of the goods as determined in accordance with the provisions of section 14 of the Customs Act, 1962 (hereinafter referred to as the Customs Act).

Auxiliary
duties of
customs.

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 1992, and upon such cesser section 6 of the General Clauses Act, 1897, shall apply as if the said sub-section had been repealed by a Central Act.

(3) The auxiliary duties of customs referred to in sub-section (1) shall be in addition to any duties of customs chargeable on such goods under the Customs Act or any other law for the time being in force.

(4) The provisions of the Customs Act and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the auxiliary duties of customs leviable under this section in respect of any goods as they apply in the relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

Special
duties of
excise.

4. (1) In the case of goods chargeable with a duty of excise under the Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excises Act), as amended from time to time, read with any notification for the time being in force issued by the Central Government in relation to the duty so chargeable (not being a notification providing for any exemption for giving credit with respect to, or reduction of duty of excise under the said Act on such goods equal to, any duty of excise under the said Act, or the additional duty under section 3 of the Customs Tariff Act, 1975 already paid on the raw material or component parts used in the production or manufacture of such goods), there shall be levied and collected a special duty of excise equal to ten per cent or of the amount so chargeable on such goods.

1 of 1944.

51 of 1975.

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 1992, and upon such cesser section 6 of the General Clauses Act, 1897, shall apply as if the said sub-section had been repealed by a Central Act.

10 of 1897.

(3) The special duties of excise referred to in sub-section (1) shall be in addition to any duties of excise chargeable on such goods under the Central Excise Act or any other law for the time being in force.

(4) The provisions of the Central Excise Act and the rules made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the special duties of excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules, as the case may be.

Sd/-

K. L. MOHANPURIA,
Additional Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

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