Extra Ordinary Part - VI / 1994

Extra No.	Date	Department
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Extra No.2	27-04-1994	Legislative & Parliamentary Affairs Department
Extra No.3	23-06-1994	Legislative & Parliamentary Affairs Department
Extra No.4	23-06-1994	Legislative & Parliamentary Affairs Department
Extra No.5	28-06-1994	Legislative & Parliamentary Affairs Department
Extra No.6	28-06-1994	Legislative & Parliamentary Affairs Department
Extra No.7	28-06-1994	Legislative & Parliamentary Affairs Department
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Extra No.12	01-09-1994	Legislative & Parliamentary Affairs Department
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Extra No.29	19-11-1994	Legislative & Parliamentary Affairs Department
Extra No.30	09-12-1994	Legislative & Parliamentary Affairs Department

Extra No. 1 REGISTERED NO. G/GNR/2

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXV] SATURDAY, MARCH 19, 1994/PHALGUNA 28, 1915

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.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 19th March, 1994.

No. : RP/8/94/ /E : The following Act of Parliament is re-published for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 4th September, 1993/13 Bhadrapad, 1915 (Saka)

The following Act of Parliament received the assent of the President on the 4th September, 1993 and is hereby published for general information :

THE NATIONAL COMMISSION FOR SAFAI KARAMCHARIS ACT, 1993.

(Act No. 64 of 1993) **[4th September, 1993]**

AN ACT

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

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

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the National Commission for Safai Karamcharis Act, 1993. Short title, extent, application, commencement, duration

(*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 tification in the Official Gazette, appoint.

(*4*) It shall cease to have effect after the 31st day of March, 1997, except as ects things done or omitted to be done before such cesser, and upon such cesser on 6 of the General Clauses Act, 1897, shall apply as if this Act had then been led by a Central Act

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Definitions.

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

(*a*) "Chairperson" means the Chairperson of the Commission ;

(b) "Commission" means the National Commission for Safai Karamcharis constituted under section 3;

(*c*) "Member" means a Member of the Commission ;

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

(*e*) "Safai Karamchari" means a person engaged in or employed for, manually carrying human excreta or any sanitation work ;

(*f*) "Vice-Chairperson" means the Vice-Chairperson of the Commission.

CHAPTER II

The National Commission for Safai Karamcharis

Constitution of the National Commission for Safai Karamcharis.

3. (*1*) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the National Commission for Safai Karamcharis 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 ;
(*b*) a Vice--Chairperson ;
(*c*) five Members,

to be nominated, from amongst the persons of eminence connected with the socio-economic development and welfare of Safai Karamcharis, by the Central Government:

Provided that at least one of the Members shall be a woman.

Term of office and conditions of service of Chairperson, Vice-Chairperson and Members.

4. (*1*) The Chairperson, Vice--Chairperson and every Member shall hold office for such period not exceeding three years as may be specified by the Central Government in this behalf or up to the 31st day of March, 1997 whichever is earlier.

(2) The Chairperson Vice-Chairperson or a Member may, by notice in writing addressed to the Central Government, resign from the office of Chairperson, Vice-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, Vice–Chair person or a member if that person—

(*a*) becomes an undischarged insolvent :

(b) is convicted and sentenced to imprisonment for an offience 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 fro three consecutive meetings of the Commission ; or

(*f*) in the opinion of the Central Government has so abused the positio Chairperson, Vice--Chairperson or Member as to render that person' continua in office detrimental to the public interest :

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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 sub-section (3) or otherwise shall be filled by fresh nomination and a person so nominated 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.

(5) The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson, Vice-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 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.

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

6. 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.

Procedure to be regulated by the Commission.

7. (1) The Commission 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.

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

CHAPTER III

Functions and powers of the Commission.

Functions and powers of the Commission.

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

(a) recommend to the Central Government specific programmes of action towards elimination of inequalities in status, facilities and opportunities for Safai Karamcharis under a time-bound action plan;

(b) study and evaluate the implementation of the programmes and schemes relating to the social and economic rehabilitation of Safai Karamcharis and make recommendations to the Central Govenent and State Governments for better co-ordination and implementation of such programmes and schemes ;

(c) investigate specific grievances and take *suo moto* notice of matters relating to non--implementation of—

(i) programmes or schemes in respect of any group of Safai Karamcharis ;

(ii) decisions, guidelines or instructions, aimed at mitigating the hardship of ai Karamcharis ;

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(*iii*) measures for the social and economic upliftment of Safai Karamcharis ;

(*iv*) the provisions of any law in its application to Safai Karmacharis ,

and take up such matters with the concerned authorities or with the Central or State Governments ;

(*d*) make periodical reports to the Central and State Governments on any matter concerning Safai Karamcharis, taking into account any difficulties or disabilities being encountered by Safai Karamcharis ;

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

(2) In the discharge of its functions under sub-section (*1*) the Commission shall have power to call for information with respect to any matter specified in that sub-section from any Government or local or other authority.

CHAPTER IV.

MISCELLANEOUS

Chairperson, Vice-Chairperson and Members and staff of the Commission to be public servants.

9. The Chairperson, Vice-Chairperson, Members, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45of1860

Central Government to consult Commission.

10. The Central Government shall consult the Commission on all major policy matters affecting Safai Karamcharis.

Annual report.

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

Annual report to be laid before Parliament or the Legislative Assembly.

12. (*1*) The Central Government shall cause the annual report to be laid before each House of Parliament along with the memorandum explainig the action taken or proposed to be taken on the recommendations contained therein in so as they relate to the Central Government and the reasons for non-acceptance, if any, such recommendation.

(2) Where the said report or any part thereof relates to any matter with which a State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature [illegible] explaining the action taken or proposed to

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Delegation of powers.

13. The Commission may, by general or special order, delegate to the Chairperson, Vice-Chairperson or any Member or to any officer of the Commission 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.

Protection of action taken in good faith.

14. No suit, prosecution or other legal proceeding shall lie against the Central Government, Commission, Chairperson, Vice-Chairperson, Members or any officer or other employee of the Commission for anything which is in good faith done or intended to be done under this Act.

Power to make rules.

15. (*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 powers, 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, Vice-Chairperson and Members under sub-section (*5*) of section 4 and of officers and other employees of the Commission under sub-section (*2*) of section 5 ;

(*b*) the form in, and the time at, with the annual report shall be prepared under section 11.

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

(*3*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall there after 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/-

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

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

SMT. K. R. TRIVEDI,
Secretary to Government.

VI–Ex.–1-2

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Extra No. 2 REGISTERED NO. G/GNR/2

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 27th April, 1994.

No. RP/30/94/2&3/94/ /E.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part -II, Section I, dated the 25th February, 1994/Magha 5, 1915 (Saka), is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi the 25th January, 1994/Magha 5, 1915 (Saka)

THE MINES AND MINERALS (REGULATION AND DEVELOPMENT) AMENDMENT ORDINANCE, 1994.

No. 2 OF 1994.

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

An Ordinance further to amend the Mines and Minerals (Regulation and Development) Act, 1957.

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:—

1. (1) This Ordinance may be called the Mines and Minerals (Regulation and Development) Amendment Ordinance, 1994. Short title and commencement.

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(2) It shall come into force at once.

Amendment of section 4A.

2. In the Mines and Minerals (Regulation and Development) Act, 1957 (hereinafter referred to as the principal Act), in section 4A,— 67 of 1957.

(*a*) in sub-section (*2*), the words", after consultation with the Central Government," shall be omitted ;

(*b*) in sub-section (*4*), for the words " one year" wherever they occur, the words "Two year" shall be substituted.

Amendment of section 5.

3. In section 5 of the principal Act,—

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

"(*1*) A state Government shall not grant a prospecting licence or mining lease to any person unless such persons,—

(*a*) is an Indian national, or a company as defined in sub-section (*1*) of section 3 of the Companies Act, 1956 ;and 1 of 1956.

(*b*) satisfies such conditions as may be prescribed :

Provided that in respect of any mineral specified in the first Schedule no prospecting licence or mining lease shall be granted except with the previous approval of the Central Government.

Explanation.—For the purposes of this sub-section a person shall be deemed to be an Indian national,—

(*a*) in the case of firm or other association of individuals, only if all the members of the firm or members of the association are citizens of India; and

(*b*) in the case of an individual, only if he is a citizen of India ";

(*ii*) in sub-section (*2*), inclause (*a*), the proviso shall be omitted.

Substitution of section 7.

4. For section 7 of the principal Act, the following section shall be substituted, namely:—

"(1) The period for which a prospecting licence may be granted shall not exceed three years;

(2) A prospecting licence shall, if the State Government is satisfied that a longer period is required to enable the licensee to complete prospecting operations be renewed for such period or periods as that Government may specify :

Provided that the total period for which a prospecting licence is granted does not exceed five years :

Provided further that no prospecting licence granted in respect of a mineral included in the First Schedule shall be renewed except with the previous approval of the Central Government."

Amendment of section 8.

5. In section 8 of the principal Act,—

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

"(1) The maximum period for which a mining lease may be granted shall not exceed thirty years :

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Provided that the minimum period for which any such mining lease may be granted shall not be less than twenty years.";

(*b*) in sub-section (*2*), for the words "two periods each not exceeding ten years", the words"a period not exceeding twenty years" shall be substituted ;

(*c*) in sub-section (*3*), for the words "in each case the period for which the mining lease was originally granted", the words "twenty years in each case" shall be substituted.

Amendment of section 16.

6. In section 16 of the principal Act, —

(*a*) in sub-section (*1*),—

(*i*) in clause (*a*), for the portion begining with the words "if in force at such commencement" and ending with the words "six months from such commencement", the following shall be substituted, namely:—

"if in force at the date of commencement of the Mines and Minerals (Regulation and Developement) Amendment Ordinance, 1994 shall be brought in conformity with the provisions of this Act and the rules made thereunder within two years from the date of the commencement of the Mines and Minerals (Regulation and Development) Amendment Ordinance, 1994";

(*ii*) in clause (*b*) for the words, brackets and figures "six months from the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972", the words, brackets and figures "two years from the commencement of the Mines and Minerals (Regulation and Development) Amendment Ordinance 1994" shall be sustituted ;

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

"(*1A*) Where any action is taken under clause (*a*) or clause (*b*) of sub-section (*1*) to bring the period of any lease in conformity with the provision of this Act and the rules made thereunder, then, notwithstanding anything contained in section 8, the period of such lease shall continue to operate for a period of two years form the date of bringing such lease in conformity with the provisions of this Act.".

Amendment of section 17A.

7. In section 17A of the principal Act,—

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

"(*1A*) The Central Government may, in consultation with the State Government, reserve any area not already held under any prospecting licence or mining lease, for undertakings prospecting or mining operations through a Government company or corporation owned or controlled by it, and where it proposes to do so, it shall, by notification in the Official Gazette, specify the boundaries of such arce and the mineral or minerals in respect of which such area will be reserved";

(*b*) in sub-section (*2*), the words " or by the Central Government " shall be omitted ;

(*c*) in sub-section (*3*), for the words, brackets and figure "Where in exercise of the powers conferred by sub-section (*2*) the State Government", the words, brackets and figures "Where in exercise of the powers conferred by sub-section (*1A*) or sub-section (*2*) the Central Government or the State Government, as the case may be shall be susbstituted.

Amendment of section 19.

8. In section 19 of the principal Act, in the *Explanation*, the words "in any State" shall be omitted.

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Insertion of section 23B.

9. After section 23A of the principal Act, the following section shall be inserted, namely:—

Power to search.

"23B. If any gazetted officer of the Central or a State Government authorised by the Central Government in this behalf by general or special order has reason to believe that any mineral has been raised in contravention of the provisions of this Act or rules made thereunder or any document or thing in relation to such mineral is secreted in any place, he may search for such mineral, document or thing and the provisions of section 100 of the Code of Criminal Procedure, 1973 shall apply to every such search.", 2 of 1974.

Amendment of section 28.

10. In section 28 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Every rule and every notification made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists one House, before that House.".

Amendment of section 30.

11. In section 30 of the principal Act, the words "with repect to any mineral other than a minor mineral" shall be inserted, at the end.

Substitution of Firest Schedule.

12. For the First Schedule to the principal Act, the following Schedule shall be substituted, namely:—

"THE FIRST SCHEDULE

[*See* sections 4 (3) 5 (1), 7 (2) an 8 (2)]

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3. Chrome Ore.
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6. Iron Ore.
7. Lead.
8. Limestone, except when it is used in kilns afor the manufactures of lime as building material.
9. Managanese Ore.
10. Precious stones.
11. Zinc.".

Sd/—.
SHANKER DAYAL SHARMA,
President.

Sd/—
K. L. MOHANPURIA,
Secretary to the Govt. of India.

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

SMT. K. R. TRIVEDI,
Secretsary to Government.

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GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 27th April, 1994.

No. RP/30/94/2 and 3/94.–E.–The following Ordinance promulgated by the president and published in the Gazette of India, Extra-ordinary, Part–II, Section 1, dated the 25th February, 1994 is republished for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 25th January, 1994/Magha 5, 1915 (Saka)

THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO TRANSACTIONS IN SECURITIES) AMENDMENT ORDINANCE, 1994

No. 3 OF 1994

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

An Ordinance to amend the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992.

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 Constitution, the President is pleased to promulgate the following Ordinance:–

Short title and commencement.

1. (*1*) This Ordinance may be called the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1994.

(*2*) It shall come into force at once.

Amendment of section 5.

27 of 1992.

2. In section 5 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 (hereafter referred to as the principal Act), after sub-section (*2*), the followning sub-section shall be inserted, namely:—

"(*3*) When the office of the Judge of the Special Court is vacant by reason of absence or leave, the duties of the office shall be performed by such Judge of the High Court within the local limits of whose jurisdiction the Special Court is situated as the Chief Justice of that High Court may, with the concurrence of the Chief Justice of India, nominate for the purpose and the Judge so appointed shall have all the jurisdiction and powers of the Judge of the Special Court including the powers to pass final orders.".

Insertion of new sections 9A and 9B.

3. After section 9 of the principal Act, the following section shall be inserted, namely:–

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Juris-diction, powers authority and proce-dure of Special Court in civil matters.

"9A. (*1*) On and from the commencement of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1994, the Special Court shall exercise all such jurisdiction, powers and authority as were exercisable, immediately before such commencement, by any civil court in relation to any matter or claim.

(*a*) relating to any property standing attached under sub-section (*3*) of section 3;

(*b*) arising out of transactions in securities entered into after the 1st dy of April, 1991, and on or before the 6th day of June, 1992, in which a person notified under sub-section (*2*) of section 3 is involved as a party, broken intermediary or in any other manner.

(*2*) Every suit, claim or other legal proceeding (other than an appeal) pending before any court immediately before the commencement of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1994 being a suit, claim or proceeding, the cause of action whereon it is based is such that it would have been, if it had arisen after such commencement within the jurisdiction of the Special Court under sub-section (*1*), shall stand transferred on such commencement to the Special Court and the Special Court may, on receipt of the records of such suit, claim or other legal proceeding, proceed to deal with it, so far as may be, in the same manner as a suit, claim or legal proceeding from the stage which was reached before such transfer or from any earlier stage or *deo novo* as the Special Court may deem fit.

(*3*) On and from the commencement of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1994, no court other than the Special Court shall have, or be entitled to exercise, any jurisdiction, power or authority in relation to any matter or claim referred to in sub-section (1)

(*4*) While dealing with cases relating to any matter or claim under this section, the Special Court shall not be bound by the procedure laid down by the Code of Civil Procedure, 1968, but shall be, guided by the principles of natural justice, and subject to the other provisions of this Act and of any rules, the Special Court shall have the power to regulate its own procedure. 5 of 1908

(**5**) Without prejudice to the other powers conferred under this Act, the Special Court shall have for the purposes of discharging its functions under this section, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:– 5 of 1908

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

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavits :

(*d*) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office : 1 of 1872

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

(*f*) reviewing its decision;

(*g*) dismissing a case for default or deciding it *ex parte*;

(*h*) setting aside any order of dismissal of any case for default or any order passed by it *ex parte;* and

(*i*) any other matter which may be prescribed by the Central Government under sub-section (*1*) of section 14.

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10of1940.

9B. (1) The Special Court shall have the jurisdiction and powers of a Court conferred under the Arbitration Act, 1940 to decide any question forming subject matter of a reference relating to any matter or claim mentioned in sub-section (1) of section 9A

Powers of the Special Court in arbitration matters.

(2) Every suit or other proceeding (other than an appeal) in relation to any matter or claim referred to in sub-section (1) of section 9A pending before any Court and governed by the Arbitration Act, 1940, immediately before the date of commencement of the Special Court (Trial of Offences relating to Transactions in Securities) Amendment Ordinance, 1994 shall stand transferred on that date to the Special Court.

10of1940.

10 of1940.

Explanation.–For the purposes of this section, the expressions "Court" and "reference" shall have respectively the same meanings as defined under clauses (c) and (e) of section 2 of the Act, 1940.

4. In section 10 of the principal Act.—

Amendment of section 10.

(a) in sub-section (1), after the word "Code", the words and figures "the Code of Civil Procedure, 1908 or the Arbitration Act, 1940" shall be inserted;

5 of 1908.
10of1940.

(b) in sub-sections (1) and (2), after the word "judgement", the word "decree" shall be inserted.

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

Insertion of new section 11A.

Power to punish for contempt.

"11A. The Special Court shall have and exercise the same jurisdiction, powers and authority in respect of contempt of itself a High Court has and may exercise and for this purpose, the provisions of the Contempt of Court Act, 1971, shall have effect subject to the modifications that–

70of1971.

(a) the references therein to a High Court shall be construed as including a reference to such Special Court;

(b) the references to the Advocate-General in section 15 of the said Act, shall be construed, in relation to the Special Court, as a reference to the Attorney-General or the Solicitor-General or Additional Solicitor-General."

Sd/-
SHANKER DAYAL SHARMA,
President.

Sd/-
K. L. MOHANPURIA,
Secretary to the Government of India.

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

Sd/-
Smt. K. R. TRIVEDI,
Secretary to Government.

VI–Extra–2–8

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Extra No. 3 REGISTERED NO. G/GNR/2

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 22nd June, 1994.

No. RP/26/94/ /E :—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(LEGISLATIVE DEPARTMENT)

New Delhi, the 27th August, 1993

The following Act of Parliament received the assent of the President on the 27th August, 1993/Bhadrapad 5, 1914 (Saka) and is hereby published for general information :

THE CONSUMER PROTECTION (AMENDMENT) ACT, 1993

AN ACT

[Act No. 50 of 1993] **[27th August, 1993]**

further to amend the Consumer Protection Act, 1986.

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

1. (*1*) This Act may be called the Consumer Protection (Amendment) Act, 1993. Short title and commencement.

(*2*) It shall be deemed to have come into force on the 18th day of June, 1993.

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Amend-ment of section 2.

2. In section 2 of the Consumer Protection Act, 1986 (hereinafter referred to as the principal Act), in sub-section (*1*), 68 of 1986.—

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

'(*a*) "appropriate laboratory"means a laboratory or organisation—

(*i*) recognised by the Central Government;

(*ii*) recognised by a State Government, subject to such guidelines as may be prescribed by the Central Government in this behalf; or

(*iii*) any such laboratory or organisation established by or under any law for the time being in force, which is maintained, financed or aided by the Central Government or a State Government for carrying out analysis or test of any goods with a view to determining whether such goods suffer from any defect;';

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

'(*aa*) "branch office" means—

(*i*) any establishment described as a branch by the opposite party; or

(*ii*) any establishment carrying on either the same or substantially the same activity as that carried on by the head office of the establishment;';

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

"(*iv*) one or more consumers, where there are numerous consumers having the same interest;";

(*4*) in cluase (*c*),—

(*A*) for sub-clause (*i*), the following sub-clause shall be substituted, namely:—

"(*i*) an unfair trade practice or a restrictive trade practice has been adopted by any trader;";

(*B*) in sub-clause (*ii*), for the words "the foods mentioned in the complaint", the words "the goods bought by him or agreed to be bought by him" shall be substituted;

(*C*) in sub-clause (*iii*), for the words "the services menioned in the complaint", the words "the services hired of availed of by or agreed to be hired or availed by him" shall be substituted;

(*D*) after sub-lause (*iv*), the following sub-clause shall be inserted, namely:—

"(*v*) goods which will be hazardous to life and safety when used, are being offered for sale to the public in contravention of the provisions of any law for the time being in force requiring traders to display information in regard to the contents, manner and effect of use of sueh goods.";

(*5*) in clause (*d*),—

(*A*) in sub-clause (*ii*), for the word "hires", in both the places where it occurs, the words "hires or avails of" shall be substituted;

(*B*) after sub-clause (*ii*), the following *Explanation* shall be inserted at the end, namely:—

'*Explanation*.—For the purposes of sub-clause (*i*), "commercial purpose" does not include use by a consumer of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self- employment;';

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(6) in clause (*f*), after the words "for the time being in force or," the words "under any contract, express or implied, or" shall be inserted;

(7) after clause (*j*), the following clause shall be inserted, namely:—

(*jj*) "member" includes the President and a member of the National Commission or a State Commission or a District Forum, as the case may be;';

(8) after clause (*n*), the following clause shall be inserted, namely:—

'(*nn*) "restrictive trade practice" means any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as a condition precedent for buying, hiring or availing of other goods of services;';

(9) in clause (*o*), after the words "board or lodging or both," the words "housing construction," shall be inserted;

(10) for clause (*r*), the following clause shall be substituted, namely:-

'(*r*) "unfair trade practice" means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice including any of the following practices, namely:—

(*1*) the practice of making any statement, whether orally or in writing or by visible representation which,—

(*i*) falsely represents that the goods are of a particular standard, quality, quantity, grade, composition, style or model;

(*ii*) falsely represents that the services are of a particular standard, quality or grade;

(*iii*) falsely represents any re-built, second-hand, renovated, reconditioned or old goods as new goods;

(*iv*) represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have;

(*v*) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have;

(*vi*) makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services;

(*vii*) gives to the public any warranty or guarantee of the performance, efficacy or length of life of a product or of any goods that is not based on an adequate or proper test thereof :

Provided that where a defence is raised to the effect that such warranty or guarantee is based on adequate or proper test, the burden of proof of such defence shall lie on the person raising such defence;

(*viii*) makes to the public a representation in a form that purports to be—

(*i*) a warranty or guarantee of a product or of any goods or services; or

(*ii*) a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result,

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if such purported warranty or guarantee or promise is materially misleading or if there is no reasonable prospect that such warranty, guarantee or promise will be carried out;

(*ix*) materially misleads the public concerning the price at which a product or like products or goods or services, have been or are, ordinarily sold or provided, and for this purpose, a representation as to price shall be deemed to refer to the price at which the product or goods or services has or have been sold by sellers or provided by suppliers generally in the relevant market unless it is clearly specified to be the price at which the product has been sold or services have been provided by the person by whom or on whose behalf the representation is made;

(*x*) gives false or misleading facts disparaging the goods, services or trade of another person.

Explanation.—For the purposes of clause (*1*), a statement that is—

(*a*) expressed on an article offered or displayed for sale, or on its wrapper or container; or

(*b*) expressed on anything attached to, inserted in, or accompanying, an article offered or displayed for sale, or on anything on which the article is mounted for display or sale; or

(*c*) contained in or on anything that is sold, sent, delivered, transmitted or in any other manner whatsoever made available to a member of the public,

shall be deemed to be a statement made to the public by, and only by, the person who had caused the statement to be so expressed, made or contained;

(*2*) permits the publication of any advertisement whether in any newspaper or otherwise, for the sale or supply at a bargain price, of goods or services that are not intended to be offered for sale or supply at the bargain price, or for a period that is, and in quantities that are, reasonable, having regard to the nature of the market in which the business is carried on, the nature and size of business, and the nature of the advertisement.

Explanation.—For the purposes of clause (2), "bargaining price" means—

(*a*) a price that is stated in any advertisement to be a bargain price, by reference to an ordinary price or otherwise, or

(*b*) a price that a person who reads, hears or sees the advertisement, would reasonably understand to be a bargain price having regard to the prices at which the product advertised or like products are ordinarily sold;

(*3*) permits—

(*a*) the offering of gifts, prizes or other items with the intention of not providing them as offered or creating impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged in the transaction as a whole ;

(*b*) the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest ;

(*4*) permits the sale or supply of goods intended to be used, or are of a kind likely to be used, by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by competent authority relating to performance, composition, contents, design, constructions, finishing or packaging as are necessary to prevent or reduce the risk of injury to the person using the goods ;

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(5) permits the hoarding or destruction of goods, or refuses to sell the goods or to make them available for sale or to provide any service, if such hoarding or destruction or refusal raises or tends to raise or is intended to raise, the cost of those or other similar goods or services.".

Amendment of section. 4.

3. In section 4 of the principal Act, in sub-section (2), in clause (a), for the words "the Department of Food and Civil supplies" the words "Consumer affairs" shall be substituted.

Amendment of section 5.

4. In section 5 of the principal Act, in sub-section (1), for the words "not less than three meetings", the words "at least one meeting" shall be substituted.

Amendment of section 6.

5. In section 6 of the principal Act,—

(*i*) in clause (*a*), after the word "goods", the words "and services" shall be inserted ;

(*ii*) in clause (b), after the word "goods", the words "or services, as the case may be", shall be inserted ;

(*iii*) in clause (c), after the word "goods", the words "and services" shall be inserted ;

(*iv*) in clause (*e*), after the words "unfair trade practices" the words "or "restrictive trade practices" shall be inserted.

Amendment of section 7.

6. In section 7 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) The State Council shall consist of the following members, namely:—

(*a*) the Minister incharge of consumer affairs in the State Government who shall be its Chairman;

(*b*) such number of other official or non-official members representing such interests as may be prescribed by the State Government.

(3) The State Council shall meet as and when necessary but not less than two meetings shall be held every year.

(4) The State Council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government.".

Amendment of section 9.

7. In section 9 of the principal Act,—

(1) in clause (*a*),—

(*i*) the words "with the prior approval of the Central Government" shall be omitted;

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

"Provided that the State Government may, if it deems fit, establish more than one District Forum in a district." ;

(2) in clause (b), the words "with the prior approval of the Central Government" shall be omitted.

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Amendment of section 10.

8. In section 10 of the principal Act,—

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

"(*1*) Each District Forum shall consist of—

(*a*) a person who is, or has been, or is qualified to be a District Judge, who be its President;

(*b*) two other members, who shall be persons of ability, integrity and standing, and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman.";

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

"(*1A*) Every appointment under sub-section (*1*) shall be made by the State Government on the recommendation of a selection committee consisting of the following, namely:—

(*i*) President of the State Commission	Chairman
(*ii*) Secretary Law Department of the State	Member,
(*iii*) Secretary incharge of the Department dealing with consumer affairs in the State-Member."	

Amendment of section 11.

9. In section 11 of the principal Act,—

(*1*) in sub-section (*1*), for the words "is less than rupees one lakh", the words 'does not exceed rupees five lakhs" shall be substituted;

(*2*) in sub-section (*2*),—

(*i*) in clause (*a*), for the words "carries on business or", the words "carries on business or has a branch office or" shall be substituted;

(*ii*) in clause (*b*),—

(*A*) for the words "carries on business", the words "carries on business or has a branch office" shall be substituted;

(*B*) for the words "carry on business," the words "carry on business or have a branch office" shall be substituted.

Substitution of new section for section 12.

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

Manner in which complaint shall b made.

'12. A complaint in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum by—

(*a*) the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided;

(*b*) any recognised consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not;

(*c*) one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of, all consumers so interested; or

(*d*) the Central or the State Government.

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1 of 1956.

Explanation.—For the purposes of this section, "recognised consumer association" means any voluntary consumer association registered under the Companies Act, 1956 or any other law for the time being in force'.

11. In section 13 of the principal Act, after sub-section (*5*) the following sub-section shall be inserted namely:—

Amendment of section 13.

"(*6*) Where the complainant is a consumer referred to in sub-clause (*iv*) of clause (*b*) of sub-section (*1*) of section 2, the provisions of rule 8 of Order I of the First Schedule to the Code of Civil Procedure, 1908 shall apply subject to the modification that every reference therein to a suit or decree shall be construed as a reference to a complaint or the order of the District Forum thereon.".

6 of 1908.

12. In section 14 of the principal Act, in sub-section (*1*),—

Amendment of section 14.

(*i*) in the opening portion, for the word "take", the word "do" shall be substituted;

(*ii*) after clause (*d*), the following clauses shall be inserted, namely:—

"(*e*) to remove the defects or deficiencies in the services in question;

(*f*) to discontinue the unfair trade practice or the restrictive trade practice or not to repeat them;

(*g*) not to offer the hazardous goods for sale;

(*h*) to withdraw the hazardous goods from being offered for sale;

(*i*) to provide for adequate costs to parties.".

13. In section 16 of the principal Act in sub-section (*1*),—

Amendment of section 16.

(*i*) in clause (*a*), the following proviso shall be inserted at the end, namely:—

"Provided that no appointment under this clause shall be made except after consultation with the Chief Justice of the High Court;";

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

"Provided that every appointment under this clause shall be made by the State Government on the recommendation of a selection committee consisting of the following namely:—

(*i*) President of the State Commission	Chairman,
(*ii*) Secretary of the Law Department of the State	Member,
(*iii*) Secretary incharge of the Department dealing with consumer affairs in the State	Members.'';

(*iii*) in sub-section (*2*), the brackets and words "(including tenure of office)" shall be omitted;

(*iv*) after sub-section (*2*), the following sub-sections shall be inserted, namely;—

" (*3*), Every member of the State Commission shall hold office for a term of five years or up to the age of sixty-seven years, whichever is earlier and shall not be eligible for re-appointment.

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(*4*) Notwithstanding anything contained in sub-section (*3*), a person appointed as a President or as a member before the commencement of the Consumer Protection (Amendment) Act, 1993, shall continue to hold such office as President or member, as the case may be, till the completion of his term.".

Amendment of section 17.

14. In section 17 of the principal Act, in clause (*a*) in sub-clause (*i*), for the words "one lakh but does not exceed rupees ten lakhs", the words "five lakhs but does not exceed rupees twenty lakhs" shall be substituted.

Amendment of section 18.

15. In section 18 of the principal Act for the words and figure "The procedure specified in sections 12, 13 and 14 and under the rules made thereunder", the words and figures "The provisions of sections 12, 13 and 14 and the rules made thereunder" shall be substituted.

Amendment of section 20.

16 In section 20 of the principal Act,—

(*i*) in sub-section (1),—

(*A*) in clause (*a*), the following proviso shall be inserted at the end, namely:—

"Provided that no appointment under this clause shall be made except after consultation with the Chief Justice of India;";

(*B*) after clause (*b*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that every appointment under this clause shall be made by the Central Government on the recommendation of a selection committee consisting of the following, namely:—

(*a*)	a person who is a Judge of the Supreme Court, to be nominated by the Chief Justice of India	—Chairman,
(*b*)	the Secretary in the Department of Legal Affairs in the Government of India	—Member,
(*c*)	Secretary of the Department dealing with consumer affairs in the Government of India	—Member;";

(*ii*) in sub-section (*2*), the brackets and words "(including tenure of office)" shall be omitted;

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

"(*3*) Every member of the National Commission shall hold office for a term of five years or up to the age of seventy years, whichever is earlier and shall not be eligible for re-appointment.

(*4*) Notwithstanding anything contained in sub-section (3), a person appointed as a President or as a member before the commencement of the Consumer Protection (Amendment) Act, 1993, shall continue to hold such office as President or member, as the case may be till the completion of his term.".

Amendment of section 21.

17. In section 21 of the principal Act, in clause (*a*), in sub-clause (*i*), for the words "ten lakhs", the words "twenty lakhs" shall be substituted.

Substitution of new section for section 22.

18. For section 22 of the principal Act, the following section shall be substituted, namely:—

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"22. The National Commission shall, in the disposal of any complaints or any proceedings before, it have — Power of and procedure applicable to the National Commission.

(*a*) the powers of a civil court as specified in sub-sections (4), (5) and (6) of section 13 ;

(*b*) the power to issue an order to the opposite party directing him to do any one or more of the things referred to in clauses (*a*) to (*i*) of sub-section (*1*) of section 14,

and follow such procedure as may be prescribed by the Central Government.".

19. After section 24 of the principal Act, the following sections shall be inserted, namely:— Insertion of new sections 24A and 24B.

"24A. (*1*) The District Forum, the State Commission or the National Commission shall not admit a complaint unless it is filed within two years from the date on which the cause of action has arisen. Limitation period.

(*2*) Notwithstanding anything contained in sub-section (*1*), a complaint may be entertained after the period specified in sub-section (*1*), if the complainant satisfied the District Forum, the State Commission or the National Commission, as the case may be, that he had sufficient cause for not filing the complaint within such period ;

Provided that no such complaint shall be entertained unless the National Commission, the State Commission or the District Forum, as the case may be, records its reasons for condoning such delay ;

24B. (*1*) The National Commission shall have administrative control over all the State Commissions in the following matters, namely:— Administrative control.

(*i*) calling for periodical returns regarding the institution, disposal, pendency of cases ;

(*ii*) issuance of instructions regarding adoption of uniform procedure in the hearing of matters, prior service of copies of documents produced by one party to the opposite parties furnishing of English translation of judgments written in any language, speedy grant of copies of documents ;

(*iii*) generally overseeing the functioning of the State Commissions or the District Fora to ensure that the objects and purposes of the Act are best served without in any way interfering with their quasi-judicial freedom.

(*2*) The State Commission shall have administrative control over all the District Fora within its jurisdiction in all matters referred to in sub-section (*1*).".

20. For section 26 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 26.

"26. Where a complaint instituted before the District Forum, the State Commission, or, as the case may be, the National Commission is found to be frivolous or vaxations, it shall, for reasons to be recorded in writing dismiss the complaint and make an order that the complainant shall pay to the opposite party such cost, not exceeding ten thousand rupees, as may be specified in the order.". Dismissal of frivolous or vexatious complaints.

INDEX

Amendment of section 27.

21. In section 27 of the principal Act,—

(*a*) after the words "against whom a complaint is made", the words "or the complainant" shall be inserted.

(*b*) after the words "such trader or person", the words "or complainant" shall be inserted;

Amendment of section 30.

22. In section 30 of the principal Act,—

(*a*) in sub-section (*1*), after the words "the provisions contained in", the words, brackets letter and figures "clause (*a*) of sub-section (*1*) of section 2" shall be inserted;

(*b*) in sub-section (*2*), after the words "the provisions contained in". the words, brackets, letter and figures "clause (b) of sub-section (*2*) and sub-section (4) of section 7" shall be inserted.

Repeal and saving.

23. (*1*) The Consumer Protection (Amendment) Ordinance, 1993 is hereby repealed. Ord. 24 of 1993

(*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/-

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

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

KUM. H. K. JHAVERI,
Secretary to the Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 22-6-1994

No. RP/12/94/ /E .—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(LEGISLATIVE DEPARTMENT)

New Delhi, the

The following Act of Parliament received the assert of the President on the 4th September, 1993/Bhadrapad 13, 1914(Saka) and is hereby published for general information:

THE EXTRADITION (AMENDMENT) ACT, 1993.

(Act No. 66 of 1993) **[4th September, 1993]**

AN ACT

futher to amend the Extradition Act, 1962.

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

1. (*1*) This Act may be called the Extradition (Amendment) Act, 1993. Short title, extent and commencement.

(*2*) It extends to the whole of India.

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

34 of 1962. 2. In the Extradition Act, 1962 (hereinafter referred to as the principal Act), in the long title, after the word "criminals", the words "and to provide for matters connected therewith or incidental thereto" shall be added. Amendment of long title.

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Substitution of words "foreign State" for words "commonwealth country".

3. In the principal Act,—

(*a*) the words "or commonwealth country" and the wrods "or country", wherever they occur, shall be omitted;

(*b*) for the words "commonwealth country", wherever they occur, the words "foreign State" shall be substituted.

Amendment of section 2.

4. In section 2 of the principal Act,—

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

'(*a*) "composite offence" means an act or conduct of a person occurred, wholly or in part, in a foreign State or in India but its effects or intended effects, taken as a whole, would constitute an extradition offence in India or in a foreign State, as the case may be;';

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

(*c*) "extradition offence" means—

(*i*) in relation to a foreign State, being a treaty State, an offence provided for in the extradition treaty with that State;

(*ii*) in relation to a foreign State other than a treaty State an offence punishable with imprisonment for a term which shall not be less than one year under the laws of India or of a foreign State and includes a composite offence;';

(*c*) in cluase (*d*), for the words "or agreement" at both the places where they occur, the words ", agreement or arrangement" shall be substituted;

(*d*) in clause (*e*), the words "other than a commonwealth country," shall be omitted;

(*e*) for clause (*f*), the following clause shall be substituted, namely:—

'(*f*) "fugitive criminal" means a person who is accused or convicted of an extradition offence within the jurisdiction of a foreign State and includes a person who, while in India, conspires, attempts to commit or incites or participates as an accomplice in the commission of an extradition offence in a foreign State.'.

Amendment of section 3.

5. In section 3 of the principal Act,—

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

"(*1*) The Central Government may, by notified order, direct that the provisions of this Act, other than Chapter III, shall apply to such foreign State or part thereof as may be specified in the order.";

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

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"(4) Where there is no extradition treaty made by India with any foreign State, the Central Government may, by notified order, treat any Convention to which India and a foreign State are parties, as an extradition treaty made by India with that foreign State providing for extradition in respect of the offences specified in that Convention.".

Amendment of Chapter II.

6. In Chapter II of the principal Act, in the heading, the words" AND TO COMMONWEALTH COUNTRIES" shall be omitted.

Amendment of section 10.

7. In section 10 of the principal Act, in sub-section (*2*), in clause (*d*), the word "respectively" shall be omitted.

Amendment of section 11.

8. In section 11 of the principal Act, the words "of a commonwealth country" shall be omitted.

Amendment of Chapter III.

9. In Chapter III of the principal Act, in the heading, for the words "COMMONWEALTH COUNTRIES", the words "FOREIGN STATES" shall be substituted.

Amendment of section 12.

10. In section 12 of the principal Act, in sub-section (*1*) for the word "country", the word "State" shall be substituted.

Amendment of Chapter IV.

11. In Chapter IV of the principal Act, in the heading, the words " OR COMMONWEALTH COUNTRIES" shall be omitted.

Substitution of new section for section 21.

12. For section 21 of the principal Act, the following section shall be substituted, namely :—

Accused or convicted person surrendered or returned by foreign State not to be tried for certain offences.

"21. Whenever any person accused or convicted of an offence, which, if committed in India would be an extradition offence, is surrendered or returned by a foreign State, such person shall not, until he has been restored or has had an opportunity of returning to that State, be tried in India for an offence other than—

(*a*) the extradition offence in relation to which he was surrendered or returned; or

(b) any lesser offence disclosed by the facts proved for the purposes of securing his surrender or return other than an offence in relation to which an order for his surrender or return could not be lawfully made; or

(*c*) the offence in respect of which the foreign State has given its consent.".

Amendment of section 25.

5 of 1898.
2 of 1974.

13. In section 25 of the principal Act, for the words and figures "the Code of Criminal Procedure, 1898", the words and figures "the Code of Criminal Procedure, 1973" shall be substituted.

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Amendment of section 26.

14. In section 26 of the principal Act, after the words "of abetting", the words, "conspiring, attempting to commit, inciting or participating as an accomplice in the commission of" shall be inserted.

Amendment of section 30.

15. In section 30 of the principal Act, the words "or commonwealth country or from any foreign State and any commonwealth country" shall be omitted.

Amendment of section 31.

16. In the principal Act—

(*a*) section 31 shall be re-numbered as sub-section (*1*) of that section and in sub-section (*1*) as so re-numbered, for clause (c), the following clause shall be substituted, namely :—

"(c) unless provision is made by that law of the foreign State or in the extradition treaty with the foreign State that the fugitive criminal shall not be determined or tried in that State for an offence other than—

(*i*) the extradition offence in relation to which he is to be surrendered or returned ;

(*ii*) any lesser offence disclosed by the facts proved for the purposes of securing his surrender or return other than an offence in relation to which an order for his surrender or return could not be lawfully made; or

(*iii*) the offence in respect of which the Central Government has given its consent;";

(b) after sub-section (*1*) as so re-numbered, the following sub-sections shall be inserted, namely :—

"(*2*) For the purposes of sub-section (*1*), the offences specified in the Schedule shall not be regarded as offences of a political character.

(*3*) The Central Government having regard to the extradition treaty made by India with any foreign State may, by notified order, add or omit any offence from the list given in the Schedule.",

Substitution of new sections for section 34.

17. For section 34 of the principal Act, the following sections shall be substituted, namely :—

Extra territorial jurisdiction.

"34. An extradition offence committed by any person in a foreign State shall be deemed to have been committed in India and such person shall be liable to be prosecuted in India for such offence.

Proceeding on refusal to extradition.

34A. Where the Central Government is of the opinion that a fugitive criminal cannot be surrendered or returned pursuant to a request for extradition from a foreign State, it may, as it thinks fit, take steps to prosecute such fugitive criminal in India.

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Provisional arrest.

34B. (*1*) On receipt of an urgent request from a foreign State for the immediate arrest of a fugitive criminal, the Central, Government may request the Magistrate having competent jurisdiction to issue a provisional warrant for the arrest of such fugitive criminal.

(*2*) A fugitive criminal arrested under sub-section (*1*) shall be discharged upon the expiration of sixty days from the date of his arrest if no request for his surrender or return is received within the said period.

Provision to life imprisonment for death penalty.

34C. Notwithstanding anything contained in any other law for the time being in force, where a fugitive criminal, who has committed an extradition offence punishable with death in India, is surrendered or returned by a foreign State do not provide for a death penalty for such an offence, such fugitive on the request of the Central Government and the laws of that foreign criminal shall be liable for punishment of imprisonment for life only for that offence.".

Subtitution of new schedule for the First and second schedules.

18. In the principal Act, for the First and Second Schedules, the following Schedule shall be substituted, namely:—

"THE SCHEDULE

[*See* section 31(2)]

OFFENCES WHICH ARE NOT TO BE REGARDED AS OFFENCES OF A POLITICAL CHARACTER

The following list of offences is to be construed according to the law in force in India on the date of the alleged offence. Wherever the names of the relevant Acts are not given, the sections referred to are the sections of the Indian Penal Code (45 of 1860):—

1. Offences under the Anti-Hijacking Act, 1982 (65 of 1982).

2. Offences under the Supression of Unlawful Acts against Safety of Civil Aviation Act, 1982 (66 of 1982).

3. An offence within the scope of the Convention on the punishment of crimes against Internationally protected persons including diplomatic agents, opened for signature at New York on 14th December, 1973.

4. An offence within the scope of the International Convention against the taking of hostages opened for signature at New York on 18th December, 1979.

5. Culpable homicide, murder (sections 299 to 304).

6. Voluntarily causing hurt or grevious hurt by a dangerous weapon or means (sections 321 to 333).

7. Offences under the Explosive Substances Act, 1908 (6 of 1908).

8. Possession of a fire arm or ammunition with intention to endanger life [section 27 of the Arms Act, 1959 (54 of 1959).]

9. The use of a fire arm with intention to resist or prevent the arrest or detention [section 28 of the Arms Act, 1959 (54 of 1959)].

10. Causing of loss or damage to property used for public utilities or otherwise with intention to endanger life (section 425 read with section 440).

11. Wrongful restraint and wrongful confinement (sections 339 to 348).

12. Kidnapping and abduction including taking of hostages (sections 359 to 369).

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13. Offences related to terrorism and terrorist acts [Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987)].

14. Abetting, conspiring or attempting to commit, inciting, participating as an accomplice in the commission of any of the offences listed above.".

Sd/-
SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

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

Kum. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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The Gujarat Government Gazette

EXTRAORDINARY

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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.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar 24th June, 1994.

No. RP/25/94/38/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(LEGISLATIVE DEPARTMENT)

New Delhi, the 27th August, 1993.

The following Act of Parliament received the assent of the President on the 27th August, 1993/Bhadrapad 1, 1915 (Saka) and is hereby pubished for general information:

THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993.

[Act No. 51 of 1993] **[27th August, 1993]**

An Act

to provide for the establishment of Tribunals for expeditious adjudication and recovery of debts due to banks and financial institutions and for matters connected therewith or incidental thereto.

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

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CHAPTER I

PRELIMINARY

Short title, extent, commencement and application.

1. (*1*) This Act may be called the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

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

(*3*) It shall be deemd to have come into force on the 24th day of June, 1993.

(*4*) The provisions of this Act shall be not apply where the amount of debt due to any bank or financial institution or to a consortium of banks or financial institutions is less than ten lakh rupees or such other amount, being not less than one lakh rupees, as the Central Government may, by notification specify.

Definitions.

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

(*a*) "Appellate Tribunal" means an Appellate Tribunal established under sub-section (*1*) of section 8;

(*b*) "application" means an application made to a Tribunal under section 19;

(*c*) "appointed day", in relation to Tribunal or an Appellate Tribunal, means the date on which such Tribunal is established under sub-section (*1*) of section 3 or, as the case may be, sub-section (*1*) of section 8;

(*d*) "bank" means —

(*i*) a banking company;
(*ii*) a corresponding new bank;
(*iii*) Stae Bank of India;
(*iv*) a subsidiary bank; or
(*v*) a Regional Rural Bank;

(*e*) "banking company" shall have the meaning assigned to it in clause (*c*) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(*f*) "corresponding new bank" shall have the meaning assigned to it in clause (*da*) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(*g*) "debt" means any liability (inclusive of interest) which is alleged as due from any person by a bank or a financial institution or by a consortium of banks or financial Institution during the course of any business activity undertaken by the bank or the financial institution or the consortium under any law for the time being in force, in cash or otherwie, whether secured or unsecured, or whether payable under a decree or order of any civil court or otherwise and subsisting on, and legally recoverable on, the date of the application;

(*h*) "financial institution" means—

(*i*) a public financial institution within the meaning of section 4A of the Companies Act, 1956; 1 of 1956.

(*ii*) such other institution as the Central Government may, having regard to its business activity and the area of its operation in India, by notification specify;

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

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

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(*k*) "Recovery Officer" means a Recovery Officer appointed by the Central Government for each Tribunal under sub-section (*1*) of section 7 ;

21 of 1976. (*l*) "Regional Rural Bank" means a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976 ;

23 of 9155. (*m*) "State Bank of India" means the State Bank of India constituted under section 3 of the State Bank of India Act, 1955;

38 of 1959. (*n*) "subsidiary bank" shall have the meaning assigned to it in clause (*k*) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959;

(*o*) "Tribunal" means the Tribunal established under sub-section (*1*) of Section 3.

CHAPTER II

Establishment of Tribunal and Appellate Tribunal

Establishment of Tribunal.

3. (*1*) The Central Government shall by notification, establish one or more Tribunals, to be known as the Debts Recovery Tribunal, to exercise the Jurisdiction, powers and authority conferred, on such Tribunal by or under this Act.

(*2*) The Central Government shall also specify, on the notification referred to in sub-section (*1*), the areas within which the Tribunal may exercise jurisdiction for entertaining and deciding the applications field before it.

Composition of Tribunal.

4. (*1*) A Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer) to be appointed, by notification, by the Central Government.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Central Government may authorise the Presiding Officer of one Tribunal to discharge also the functions of the Presiding Officer of another Tribunal.

Qualifications for appointment as Presiding Officer.

5. A person shall not be qualified for appointment as the Presiding Officer of a Tribunal unless he is, or has been, or is qualified to be, a District Judge.

Term of office.

6. The Presiding Officer of a Tribunal shall hold office of a term of five years from the date on which he enters upon his office or until he attains the age of sixty years, whichever is earlier.

Staff of Tribunal

7. (*1*) The Central Government shall provide the Tribunal with a Recovery Officer and such other officers and employees as that Government may thnik fit.

(*2*) The Recovery Officer and other officers and employees of a Tribunal shall discharge their functions under the general superintendence of the Presiding Officer.

(*3*) The salaries and allowances and other conditions of service of the Recovery Officer and other officers and employees of a Tribunal shall be such as may be prescribed.

Establishment of Appellate Tribunal.

8. (*1*) The Central Government shall, by notification, establish one or more Appellate Tribunals, to be known as the Debts Recovery Appellate Tribunal, to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

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(2) The Central Government shall also specify in the notification referred to in sub-section (*1*) the Tribunals in relation to which the Appellate Tribunal may exercise jurisdiction.

Compostition of Appellate Tribunal.

9. An Appellate Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer of the Appellate Tribunal) to be appointed, be notification, by the Central Government.

Qualifications for appointment as President Officer of the Appellate Tribunal.

10. A person shall not be qualified for appointment as the Presiding Officer of an Appellate Tribunal unless he—

(*a*) is, or has been, or is qualified to be, a Judge of a High Court; or

(*b*) has been a member of the Indian Legal Service and has held a post in Grade I of that Service for at least three years; or

(*c*) has held office as the Presiding Officer of a Tribunal for at least three years.

Term of office.

11. The Presiding Officer of an Appellate Tribunal shall hold office for a ter, of five years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.

Staff of the Appellate Trubunal.

12. The provisions of section 7 (except those relating to Recovery Officer) shall, so far as may be apply to an Appellate Tribunal as hey apply to a Tribunal and accordingly references, in that section to Tribunal" shall be construed as referred to "Appellate Tribunal" and references to "Recovery Officer" shall be deemed to have been omitted.

Salary and allowanaces and other terms and conditons of service of Presiding Officers.

13. The salary and allowances payable to and the other terms and conditions of service (including pension, gratuity and other retirement between benefits) of, the Presiding Officer or a Tribunal or an Appellate Tribunal shall be such as may be prescribed;

Provided that neither the salary and allowances nor the other terms and conditions of service of the said Presiding Officers shall be varied to their disadvantage after appointment.

Filling up of vacancies.

14. If, for any reason other than temporary absence any vacancy occurs in the office of the Presiding Officer of a Tribunal or an Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Tribunal or the Appellate Tribunal from the stage at which the vacancy is filled.

15. (*1*) The Presiding Officer of a Tribunal or an Appellate Tribunal may, be notice in writing under his hand addressed to the Central Government resign his office:

Provided that the said Presiding Officer shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor entres upon his office or until the expiry of his term of office, whichever is the earliest.

(*2*) The Presiding Officer of a Tribunal or an Appeallate Tribunal shall not be removed from his office except by an free made by the Central Government on the ground of proved misbehaviour or incapacity after inquiry,—

(*a*) in the case of the Presidint Officer of a Tribunal, made by a Judge of a High Court;

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(*b*) in the case of the Presideing Officer of an Appeallate Tribunal, made by a Judge of the Supreme Court,

in which the Presiding Officer concerned has been informed of the charges against him and given a reasonable opportunity of being hard in respect of these charges.

(*3*) The central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the aforesaid Presiding Officer.

Orders constituting Tribunal or an Appellate Tribunal to be final and not to invalidate its proceedings.

16. No order of the Central Government appointing any person as the Presiding Officer of a Tribunal or an Appeallate Tribunal shall be called in question in any manner and no act or proceeding before a Tribunal or an Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Tribunal or an AppellateTribunal.

CHAPTER III

JURISDICTION, POWERS AND AUTHORITY OF TRIBUNALS

Jurisdiction, powers and authority of Tribunals.

17. (*1*) A Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain and decide applications from the banks and financial institutions for recovery of debts due to such banks and financial institutions.

(*2*) An Appellate Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain appeals against any order made, or deemed to have been made, by a Tribunal under this Act.

Bar of jurisdiction.

18. On and from the appointed day, no court or other authority shall have, or be entitled to exercise any jurisdiction, powers or authority (except the Supreme Court, and a High court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to the matters specified in section 17.

CHAPTER IV

PROCEDURE OF TRIBUNALS

Application to the Tribunal.

19. (*1*) Where a bank or a financial institution has to recover any debt from any person, it may make an application to the Tribunal within the local limits of whose jurisdiction,—

(*a*) the defendant, or each of the defendants where there are more than one, at the time of making the application, actually and voluntarily resides, or carries on business, or personally works for gain; or

(*b*) any of the defendants, where there are more than one, at the time of making the application, actually and voluntarily resides or carries on business, or personally works for gain; or

(c) the cause of action, wholly or in part, arises.

(2) Every application under sub-section (*1*) shall be in such form and be accompanied by such documents or other evidence and by such fee filing the application as may be prescribed:

Provided that the fee may be prescribed having regard to the amount of debt to be recovered:

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Provided further that nothing contained in this sub-section relating to fee shall apply to cases transferred to the Tribunal under sub-section (*1*) of section 31.

(*3*) On receipt of the application under sub-section (*1*), the Tribunal shall issue summons requiring the defendant to show cause within thirty days of the service of summons as to why the relief prayed for should not be granted.

(*4*) The Tribunal may, after giving the applicant and the defendant an opportunity of being heard, pass such orders on the application as it thinks fit to meet the ends of justice.

(*5*) The Tribunal shall send a copy of every order passed by it to the applicant and the defendant.

(*6*) The Tribunal may make an interim order (whether by way of injunction or stay) against the defendant to debar him from transfering, alienating or otherwise dealing with, or disposing of, any property and assets belonging to him without the prior permission of the Tribunal.

(*7*) The Presiding Officer shall issue a certificate under his signatures on the basis of the order of the Tribunal, to the Recovery Officer for recovery of the amount of debt specified in the certificate.

(*8*) The application made to the Tribunal under sub-section (*1*) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application finaly within six months from the date of receipt of the application.

Appeal to the Appellate Tribunal.

20. (*1*) Save as provided in sub-section (*2*), any person aggrieved by an order made, or deemed to have been made, by a Tribunal under this Act, may prefer an appeal to an Appellate Tribunal having jurisdiction in the matter.

(*2*) No appeal shall lie to the Appellate Tribunal from an order made by a Tribunal with the consent of the parties.

(*3*) Every appeal under sub-section (*1*) shall be field within a period of forty-five days from the date on which a copy of the order made, or deemed to have been made, by the Tribunal is received by him and it shall be in such form and be accompanied by such fee as may be prescribed;

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(*4*) On receipt of an appeal under sub-section (*1*), the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming modifying or setting aside the otder appelled against.

(*5*) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned Tribunal.

(*6*) The appeal field before the Appellate Tribunal under sub-section (*1*) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Deposit of amount of debt due, on filing appeal.

21. Where an appeal is preferred by any prson from whom the amount of debt is due to a bank or a financial institution or a consortium of banks or financial institutions, such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited with the Appellate Tribunal seventy-five per cent. of the amount of debt so due from him as determined by the Tribunal under section 19.

Provided that the Appellate Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section.

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Procedure and powers of the Tribunal and the Appellate Tribunal.

5 of 1908. 22 (1) The Tribunal and the Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Tribunal and the Appllate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Tribunal and the Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

5 of 1908

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

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

(e) reviewing its decisions;

(f) dismissing an application for default or deciding it *ex parte*;

(g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*;

(h) any other matter which may be prescribed.

(3) Any proceeding before the Tribunal or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code and the Tribunal or the Appellate Tribunal 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.

45 of 1860

2 of 1974

Right to legal representation and presenting Officers.

23. (1) A bank or a financial Institution making an application to a Tribunal or an appeal to an Appellate Tribunal may authorise one or more legal practitioners or any of its officers to act as Presenting Officers and every person so authorised by it may present its case before the Tribunal or the Appellate Tribunal.

(2) The defendent may either apper in person or autharise cne or more legal practitioners or any of his or its officers to present his or its case befroe the Tribunal or the Appellate Tribunal.

Limitation.

36 of 1963

24. The provisions of the Limitation Act, 1963, shall, as far as may be apply to an application made to a Tribunal.

CHAPTER V.

RECOVERY OF DEBT DETERMINED BY TRIBUNAL

Modes of recovery of debts.

25. The Recovery Officer shall, on receipt of the copy of the certificate under subsection (7) of section 19, proceed to recover the amount of debt specified in the certificate by one or more of the following modes, namely:—

(a) attachment and sale of the movable or immovable property of the defendant;

(b) arrest of the defendant and his detention in prison;

(c) appointing a receiver for the management of the movable or immovable properties of the defendant.

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Validity of certificate and amendment thereof.

26. (*1*) It Shall not be open to the defendant to dispute before the Recovery Officer the correctness of the amount specified in the certificate, and no objection to the certificate on any other ground shall also be entertained by the Recovery Officer.

(*2*) Notwithstanding the issue of a certificate to a Recovery Officer, the Presiding Officer shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by sending an intimation to the Recovery Officer.

(*3*) The Presiding Officer shall intimate to the Recovery Officer any order withdrawing or cancelling a certificate or any correction made by him under sub-section (*2*).

Stay of proceedings under certificate and amendment or withdrawal thereof.

27. (*1*) Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the Presiding Officer may grant time for the payment of the amount, and thereupon the Recovery Officer shall stay the proceedings until the expiry of the time so granted.

(*2*) Where a certificate for the recovery of amount has been issued, the Presiding Officer shall keep the Recovery Officer informed of any amount paid or time granted for payment, subsequent to the issue of such certificate to the Recovery Officer.

(*3*) Where the order giving rise to a demand of amount for recovery of debt has been modified in appeal, and, as a consequence thereof the demand is reduced, the Presiding Officer shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal remains pending.

(*4*) Where a certificate for the recovery of debt has been received by the Recovery Officer and subsequently the amount of the outstanding demands is reduced as a result of an appeal, the Presiding Officer shall, when the order which was the subject matter of such appeal has become final and conclusive, amend the certificate or withdraw it as the case may be.

Other modes of recovery.

28. (*1*) where a certificate has been issued to the Recovery Officer under sub-section (7) of section 19, the Recovery Officer may, without prejudice to the modes of recovery specified in section 25, recover the amount of debt by any one or more of the modes provided under this section.

(*2*) If any amount is due from any person to the defendant, the Recovery Officer may require such person to deduct from the said amount, the amount of debt due from the defendant under this Act and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Recovery Officer:

5 of 1998

Provided that nothing in this sub-section shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908.

5 of 1908

(*3*) (*i*) The Recovery Officer may, at any time or from time to time, by notice in writing, require any person from whom money is due or may become due to the defendant or to any person who holds or may subsequently hold money for or on account of the defendant, to pay to the Recovery Officer either forthwith upon the money becoming due or being held or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount of debt due from the defendant or the whole of the money when it is equal to or less than that amount.

(*ii*) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the defendant jointly with any other person and for the purposes of this sub-section the shares of the joint holders in such amount shall be presumed, until the contrary is proved, to be equal.

(*iii*) A copy of the notice shall be forwarded to the defendant at his last address known to the Recovery Officer and in the case of a joint account to all the joint holders at their last addresses known to the Recovery Officer.

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(*iv*) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, bank, financial institution, or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like to be made before the payment is made notwithstanding any rule, practice or requirement to the contrary;

(*v*) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(*vi*) Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or the part thereof is not due to the defendant or that he does not hold any money for or on account of the defendant, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be presonally liable to the Recovery Officer to the extent of his own liability to the defendant on the date of the notice, or to the extent of the defendant's liability for any sum due under this Act, whichever is less.

(*vii*) The Recovery Officer may, at any time or from time to time, amend or revoke any notice under this sub-section or extend the time for making any payment in pursuance of such notice.

(*viii*) The Recovery Officer shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the defendant to the extent of the amount so paid.

(*ix*) Any person discharging any liability to the defendant after the receipt of a notice under this sub-section shall be personally liable to the Recovery Officer to the extent of his own liability to the defendant so discharged or to the extent of the defendants liability for any debt due under this Act, whichever is less.

(*x*) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Recovery Officer, he shall be deemed to be a defendant in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were a debt due from him, in the manner provided in sections 25, 26 and 27 and the notice shall have the same effect as an attachment of a debt by the Recovery Officer in exercise of his powers under section 25.

(4) The Recovery Officer may apply to the court in whose custody there is money belonging to the defendant for payment to him of the entire amount of such money, or if it is more than the amount of debt due, an amount sufficient to discharge the amount of debt so due.

(5) The Recovery Officer may recover any amount of debt due from the defendant by distraint and sale of his movable property in the manner laid down in the Third Schedule to the Income-tax Act, 1961.

43 of 1961

43 of 1961

29. The provisions of the Second and Third Schedule to the Income tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time shall, as far as possible, apply with necessary modifications as if the said provisions and the rules referred to the amount of debt due under this Act instead of to the income-tax:

Application of certain provisions of Income-tax Act.

Provided that any reference under the said provisions and the rules to the "assessee" shall be construed as a reference to the defendant under this Act.

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Orders of Recovery Officer to be deemed as orders of Tribunal.

30. Notwithstanding anything contained section 29, an order made by the Recovery Officer in exercise of his powers under sections 25 to 28 (both inclusive), shall be deemed to have been made by the Tribunal and an appeal against such order shall lie to the Appellate Tribunal.

CHAPTER VI

MISCELLANEOUS

Transfer of pending cases.

31. (*1*) Every suit or other proceeding pending before any court immediately before the date of establishment of a Tribunal under this Act, being a suit or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after such establishment, within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal :

Provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before any court

(2) Where any suit or other proceeding stands transferred from any court to a Tribunal under sub-section (*1*),—

(*a*) the court shall, as soon as may be after such transfer, forward the records of such suit or other proceeding to the Tribunal ; and

(*b*) the Tribunal may, on receipt of such records, proceed to deal with such suit or other proceeding, so far as may be, in the same manner as in the case of an application made under section 19 from the stage which was reached before such transfer or from any earlier stage or *de novo* as the Tribunal may deem fit.

Members and staff of Tribunals to be public servants.

32. The Presiding Officer, the Recovery Officer and other officer and employees of a Tribunal and an Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

33. No suit, prosecution or other legal proceeding shall lie against the Central Government or against the Presiding Officer of a Tribunal or of an Appellate Tribunal or against the Recovery Officer for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Act to have overriding effect.

34. (*1*) Save as provided under sub-section (*2*), the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

(*2*) The provisions of this Act or the rules made thereunder shall be in addition to, and not in derogation of, the Industrial Finance Corporation Act, 1948, the State Financial Corporations Act, 1951, the Unit Trust of India Act, 1963, the Industrial Reconstruction Bank of India Act, 1984, and the Sick Industrial Companies (Special Provisions) Act, 1985. 15 of 1948 63 of 1951. 52 of 1963. 62 of 1984 1 of 1986

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Power to remove difficulties.

35. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expendient for removing the difficulty.

Provided that no such order shall be made after the expiry of the period of three years from the date of commencement of this Act.

(*2*) Every order made under this section shall, as soon as may be after it is made be laid before each House of Parliament.

Power to make rules.

36. (*1*) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(*2*) Without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters namely.—

(*a*) the salaries and allowances and other terms and conditions of service of the Presiding Officers, Recovery Officers and other officers and employees of the Tribunal and the Appellate Tribunal under sections 7, 12 and 13 ;

(*b*) the procedure for the investigation of misbehaviour or incapacity of the Presiding Officers of the Tribunals and Appellate Tribunals under sub-section (*3*) of section 15 ;

(*c*) the form in which an application may be made under section 19, the documents and other evidence by which such application shall be accompanied and the fees payable in respect of the filing of such application ;

(*d*) the form in which an appeal may be filed before the Appellate Tribunal under section 20 and the fees payable in respect of such appeal ;

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

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

Repeal and saving.

37. (*1*) The Recovery of Debts Due to Banks and Financial Institutions Ordinance, 1993 is hereby repealed.

Ord. 25 of 1993.

(*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/—.
SHRI K. L. MOHANPURIA,
Secretary to the Govt. of India.

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

KUM. H. K. JHAVERI,
Secretary to Government.

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

PART—VI

GOVERNMENT OF GUJRAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 27th June, 1994.

No. RP/13/94/ /E :—The following Act of Parliament is re-publised for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS,

(LEGISLATIVE DEARTMENT)

New Delhi, the 27th August, 1993.

The folloging Act of Parliament received the assent of the President on the 27th August, 1993/Bhadrapad 5, 1914 (saka) and is hereby published for general information :

THE PARLIAMENT (PREVENTION OF DISQUALIFICATION) AMENDMENT ACT, 1993.

[27th August, 1993]

[Act No. 54 of 1993]

AN ACT

futher to amend the Parliament (Prevention of Disqualification) Act, 1959.

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

Short title and commencement.

1. (*1*) This Act may be called the Parliament (Prevention of Disqualification) Amendment Act, 1993.

(*2*) Section 2 and clauses (*b*) and (*d*) of section 3 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 19th day of July, 1993.

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Amendment of section 2.

2. In section 2 of the Parliament (Prevention of Disqualification) Act, 1959 (hereinafter referred to as the (principal Act), in clause (*a*), for the words and figures "the Salaries and Allowances of Members of Parliament Act, 1954", the words and figures "the Salary, Allowances and Pension of Members of Parliament Act, 1954" shall be substituted. 10 of 1959. 30 of 1954.

Amendment of section 3.

3. In section 3 of the principal Act,—

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

"(*ab*) the office of Deputy chairman, Planning Commission;";

(*b*) after clause (*b*), the following clause shall be inserted, nemely:—

"(*ba*) the office of chirperson of—

(*i*) the National Commisson for Minorities constituted under section 3 of the National Commission for Minorities Act, 1992; 19 of 1992.

(*ii*) the National Commission for the Scheduled Castes and Scheduled Tribes constituted under clasuse (1) of article 338 of the constitution;

(*iii*) the National Commission for Women constituted under section 3 of the National Commission for Women Act, 1990;"; 20 of 1990.

(*c*) for cluase (*i*), the fllowing clause shall be subtsituted, namely:—

"(*i*) the office of chairman, director or member of any statutory or non-statutory body other than any such body as is referred to in clause (*h*), if the holder of such office is not entitled to any remuneration other than compensatory allowance, but excluding (*i*) the office of chairman of any statut or or non-statutory body specified in Part I of the Schedule, and (*ii*) the office of chairman or secretary of any statutory or non-statutory body specified in Part II of the Schedue;";

(d) *in Explanation* I, for he words "chairman or secretary", the words "chairman, Deputy Chairman or secretary" shall be sub-stituted.

Amendment of the Schedule.

4. In the Schedule to the principal Act, Part III shall be omitteed.

Repeal and saving.

5. (1) The Parliament (Prevention of Disqalification) Amendment Ordinance, 1993 is hereby repealed. Ord. 29 of 1993.

(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/-
SHRI K. L. MOHANPURIA,
Secretary to the Govt. of India.

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

Kum. H. K. JHAVERI,
Secretary to the Government.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 27th June, 1994.

No. RP/20/94/ /E.—The following Act of Parliament is re-published for general information:

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(LEGISLATIVE DEPARTMENT)

New Delhi, the 27th August, 1993.

The following Act of Parliament received the assent of the President on the 27th August, 1993/Bhadrapad 1, 1915 (Saka) and is hereby published for general information;

THE CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION OF SMUGGLING ACTIVITIES (AMENDMENT) ACT, 1993

(AS PASSED BY THE HOUSES OF PARLIAMENT)

[Act. No. 52 of 1993] **[27th August, 1993]**

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-fourth Year of the Republic of India as follows:—

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Short title and Commencement.

1. (*1*) This Act may be called the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1993.

(*2*) It shall be deemed to have come into force on the 25th day of June, 1993.

Amendment of Section 9 of Act 52 of 1974.

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, 1993", the figures, letters and words "31st day of July, 1996" shall be substituted.

Repeal and Saving.

3. (*1*) The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1993, is hereby repealed. Ord. 26 of 1993.

(*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)

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

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

KUM. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 30th June, 1994.

No. RP/33/94/43/E.–The following Act of parliament is re-published for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(LEGISLATIVE DEPARTMENT)

New Delhi, the 8th January, 1994.

The following Act of Parliament received the assent of the President on the 8th January, 1994/ Paush 18, 1915 (Saka) and is hereby published for general information.

THE PROTECTION OF HUMAN RIGHTS ACT, 1993

[Act No. 10 of 1994] **[8th January, 1994]**

AN ACT

to provide for the constitution of a National Human Rights Commission, State Human Rights Commission in States and Human Rights Courts for better protection of human rights and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows–

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CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Protection of Human Rights Act, 1993.

(*2*) It extends to the whole of India:

Provided that it shall apply to the State of Jammu and Kashmir only in so far as it pertains to the matterrs relatable to any of the entries enumerated in List I or List III in the Seventh Schedule to the Constitution as applicable to that State.

(*3*) It shall be deemed to have come into force on the 28th day of September, 1993.

Definitions.

2. (*1*) In this Act, unless the context otherwies requires,–

(*a*) "armed forces" means the naval, military and air forces and includes any other armed forces of the Union;

(*b*) "Chairperson" means the Chairperson of the Commission or of the State Commission as the case may be;

(*c*) "Commission" means the National Human Rights Commission constituted under section 3;

(*d*) "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India;

(*e*) "Human Rights Court" means the Human Rights Court specified under section 30.

(*f*) "International Covenans" means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16th December, 1966;

(*g*) "Member" means Member of the Commission or of the State Commission as the case may be, and includes the Chairperson;

(*h*) "National Commision for Minorities" means the National Commision for Minorities constituted under section 3 of the National Commission for Minorities Act, 1992; 19 of 1992.

(*i*) "National Commission for the Scheduled Castes and Scheduled Tribes" means the National Commission for the Scheduled Castes and Scheduled Tribes referred to in article 338 of the Constitution;

(*j*) "National Commission for Women" means the National Commission for Women constituted under section 3 of the National Commission for Women Act, 1990. 20 of 1990.

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

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

(*m*) "public servant" shall have the meaning assigned to it in section 21 of the Indian Penal Code; 45 of 1860.

(*n*) "State Commsision" means a State Human Rights Commission constituted under section 21.

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(2) Any reference in this Act to a law, which is not in force in the State of Jammu and Kashmir, shall, in reltion to that State, be construed as a reference to a corresponding law, if any, in force in that State;

CHAPTER II

The National Human Rights Commission

Constitution of a National Human Rights Commission.

3. (1) The Central Government shall constitute a body to be known as the National Himan Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, it under this Act,

(2) The Commission shall consist of–

(a) a Chairperson who has been a Chief Justice of the Supreme Court;

(b) one Member who is, or has been, a Judge of the Supreme Court;

(c) one Member who is, or has been, the Chief Justice of a High Court;

(d) two Members to be appointed from amongst persons having knowledge of, or practical experience in matters relating to human rights.

(3) The Chairpersons of the National Commission for Minorities, the National Commission for the Scheduled Castes and Scheduled Tribes and the National Commission for Women shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of section 12.

(4) There shall be a Secretary-General who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions of the Commission as it may delegate to him.

(5) The headquarters of the Commission shall be at Delhi and the Commission may, with the previous approval of the Central Government, establish offices at other places in India.

Appointment of Chairperson and other Members.

4. (1) The Chairperson and other Members shall be appointed by the President by warrant under his hand and seal:

Provided that every appointement under this sub-section shall be made after obtaining the recommendations of a Committee consisting of—

(a) the Prime Minister	—chairperson;
(b) Speaker of the House of the People	—member;
(c) Minister in-charge of the Ministry of Home Affairs in the Government of India	—member;
(d) Leader of the Opposition in the House of the People	—member;
(e) Leader of the Opposition in the Council of States	—member;
(f) Deputy Chairman of the Council of States	—member:

Provided further that no sitting Judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed except after consultation with the Chief Justice of India.

(2) No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in the Committee.

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Removal of a Member of the Commission.

5. (*1*) Subject to the provisions of sub-section (*2*), the Chairperson or any other Member of the Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such other Member, as the case may be, ought on any such ground to be removed

(*2*) Notwithstanding anything in sub-section (*1*), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be,—

(*a*) is adjudged an insolvent; or

(*b*) engages during his term of office in any paid employment outside the duties of his office; or

(*c*) is unfit to continue in office by reason of infirmity of mind or body; or

(*d*) is of unsound mind and stands so declared by a competent court; or

(*e*) is convicted and sentenced to imprisonment for an offence which in the opiion of the President involves moral turpitude.

Term of office of Members.

6. (*1*) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

(*2*) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

(*3*) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of India or under the Government of any State.

Member to act as Chairperson or to discharge his functions in certain circumstances.

7. (*1*) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(*2*) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the President may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Terms and conditions of service of Members.

8. The salaries and allowances payable to, and other terms and conditions of service of, the Members shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of a Member shall be varied to his disadvantage after his appointment.

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

9. No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

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Procedure to be regulated by the Commission.

10. (1) The Commission shall meet at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure.

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

Officers and other staff of the Commission.

11. (1) The Central Government shall make available to the Commission—

(a) an officer of the rank of the Secretary to the Government of India who shall be the Secretary-General of the Commission; and

(b) such police and investigative staff under an officer not below the rank of a Director General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the Commission.

(2) Subject to such rules as maybe made by the Central Government in this behalf, the Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

Functions of the Commission.

12. The Commission shall perform all or any of the following functions, namely:—

(a) inquire, *SUO Motu* of on a petition presented to it by a victim or any person on his behalf, into complaint of –

(i) violation of human rights or abetment thereof; or

(ii) negligence in the prevention, of such violation, by a public servant;

(b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;

(c) visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon;

(d) reveiw the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for thier effective implementation;

(e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures,

(f) study treaties and other international instruments on humaghts and make recommendations for thier effective implementation.

(g) undertake and promote research in the field of human rights:

(h) spead human rights literacy among various sections of society and promote awarencess of thesafaguards available fotthe protection of these rights through publication of these rights through publications, the media seminars and other available means;

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(i) encourage the efforts of non governmental organisations and institutions working in the field of human rights;

(j) such other functions as it may consider necessary for the promotion of human rights.

5of 1908.

Powers relating to inquiries.

13. (1) The Commission shall, while inquiring into complaints under this Act, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908, and in particular in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of witnesses and examining them on oath;

(b) 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 of documents;

(f) any other matter which may be prescribed.

(2) The Commission shall have power to require any persons, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code. 45 of 1860.

(3) The Commission or any other officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provision of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable. 2 of 1974.

(4) The Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974.

(5) Every proceeding before the Comimmission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code and the Compmission shall be deemed be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974.

Investigation.

14. (1) The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilise the services of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.

(2) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilised under subsection (*1*) may, subject to the direction and control of the Commission:—

(*a*) summon and enforce the attendance of any person and examine him

(*b*) require the discovery and production of any document; and

(*c*) requisition any public record or copy thereof from any office.

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(3) The provisions of section 15 shall apply in relation to any statement made by a person before any officer or agency whose services are utilised under sub-section (*1*) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

(4) The officer or agency whose services are utilised under sub-section (*1*) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf.

(5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under sub-section (*4*) and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.

Statement made by persons to the Commission.

15. No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement :

Provided that the statement—

(*a*) is made in reply to the question which he is required by the Commission to answer; or

(*b*) is relevant to the subject matter of the inquiry.

Persons likely to be prejudicially affected to be heard.

16. If, at any stage of the inquiry, the Commission—

(*a*) considers it necessary to inquiry into the conduct of any person; or

(*b*) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry.

it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence :

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

CHAPTER IV

PROCEDURE

Inquiry into complaints.

17. The Commission while inquiring into the complaints of violations of human rights may—

(i) call for information or report from the Central Government or any State Government or any other authority or organication subordinate thereto within such time as may be specified by it :

Provided that—

(*a*) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own ;

(*b*) if, on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the commplaint and inform the complainant accordingly ;

(*ii*) without prejudice to anything contained in clause (i), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.

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Steps after Inquiry.

18. The Commission may take any of the following steps upon the completion of an inquiry held under thic Act, namely :—

(*1*) where the inquiry discloses, the commission of violation of human rights or, negligence in the prevention of violation of human rights by a public servant, it may recommend to the concerned Government or authority the initiation of pro ceedings for procecution or sush other action as the Commission may deem fit against the concerned person or persons ;

(*2*) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary ;

(*3*) recommend to the concerned Government or authority, for the grant of such immediate interim relief to the victim or the memebrs of his family as the Commission may consider necessary;

(*4*) subject to the provisions of clause (*5*) provide a copy of the inquiry report to the petitioner or his representative;

(*5*) the Commisson shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken there on, to the Commission;

(*6*) the Commission shall publish its inqiry report together with the comments of the concerned Government or auhtority, if any and the action taken or proposed to be taken by the concerned Goverment or auhtority on the recommendations of the Commission.

Procedure with respect to armed forces.

19. (*1*) Notwithstanding anything contined in this Act, while dealing with complaints of violation of human rights by members of the armed forces, the Commission shall adopt the followoing procedre, namely :—

(*a*) it may, either on its own motion or on receipt of a petition, seek a report from the Central Government;

(*b*) after the receipt of the report, it may, either not proceed with the complaint or, as the case may be, make its recommendations to that Government.

(*2*) The Central Government shall inform the Commission of the action taken on the recommendations within three months or such further time as the Commision may allow.

(*3*) The Commission shall publish its report together with its recommendations made to the Central Government and the action taken by that Government on such recommendations.

(*4*) The Commission shall provide a copy of the report published under sub-section (3) to the petitioner or his representative.

Annual and special reports of the Commission.

20. (*1*) The Commission shall submit an annual report to the Central Government and to the State Government concerned and may at any time and submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(*2*) The Central Government and the State Government as the case may be, shall cause the annual and special reports of the Commission to be laid before each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations if any.

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CHAPTER V

State Human Rights Commissions

Constitution of State Human Rights Commissions.

21. (*1*) A State Government may constitute a body to be known as the..... (name of the State) Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission under this Chapter.

(*2*) The State Commission shall consist of—

(*a*) a Chairperson who has been a Chief Justice of a High Court;

(*b*) one Member who is, or has been, a Judge of a High Court;

(*c*) one Member who is, or has been, a district judge in that State;

(*d*) two members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

(*3*) There shall be a Secretary who shall be the Chief Executive Officer of the State Commission and shall exercise such powers and discharge such functions of the State Commission as it may delegate to him.

(*4*) The headquarters of the State Commission shall be at such place as the State Government may, by notification, specify.

(*5*) A State Commission may inquire into violation of human rights only in respect of matters relatable to any of the entries enumerated in List II and List III in the Seventh Schedule to the Constitution:

Provided that if any such matter is already being inquired into by the Commission or any other Commission duly Constituted under any law for the time being in force, the State Commission shall not inquire into the said matter:

Provided further that in relation to the Jammu and Kashmir Human Rights Commission, this sub-section shall have effect as if for the words and figures "List II and List III in the Seventh Schedule to the Constitution", the words and figures "List III in the Seventh Schedule to the Constitution as applicable to the State of Jammu and Kashmir and in respect of matters in relation to which the Legislature of that State has power to make laws" had been substituted.

Appointment of Chairperson and other Members of State Commission.

22. (*1*) The Chairperson and other Members shall be appointed by the Governor by warrant under his hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendation of a Committee consisting of—

(*a*) the Chief Minister —Chair person;
(*b*) Speaker of the Legislative Assembly —member;
(*c*) Minister in charge of the Department of Home in that State — member;
(*d*) Leader of the Opposition in the Legislative Assembly—Member;

Provided further that where there is a Legislative Council in a State, the Chairman of that Council and the Leader of the Opposition in that Council shall also be members of the Committee:

Provided also that no sitting Judge of a High Court or a sitting district judge shall be appointed except after consultation with the Chief Justice of the High Court of the concerned State.

(*2*) No appointment of a Chairperson or a Member of the State Commission shall be invalid merely by reason of any vacancy in the Committee.

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Removal of a Member of the State Commission.

23. (*1*) Subject to the provisions of sub-section (*2*), the Chairperson or any others Member of the State Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference being made to it by the President, has on inquiry held in, accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such other Member, as the case may be, ought on any such ground to be removed.

(*2*) Notwithstanding anything in sub-section (*1*), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be,—

(*a*) is adjudged an insolvent; or

(*b*) engages during his term of office in any paid employment outside the duties of his office; or

(*c*) is unfit to continue in office by reason of infirmity of mind or body; or

(*d*) is of unsound mind and stands so declared by a competent court; or

(*e*) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

Term of office of Members of the State Commission

24. (*1*) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enter upon his office or until he attains the age of seventy years, whichever is earlier.

(*2*) A personappointedasaMember shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

(*3*) On ceasing to hold office, a Chairperson or a Member shall be ineligible for futher employment under the Government of a State or under the Government of India.

Member to act as Chairperson or todischarge his functions in certain circumstances.

25. (*1*) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Governor may, by notification, authorise one of the Members to act as the Chairperson until the appointement of a new Chairperson to fill such vacancy.

(*2*) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the Governor may, by notification, authorise in this behalf, shall discharge the fucntions of the Chairperson until the date on which the Chairperson resumes his duties.

Terms and conditions of service of Members of the State Commission.

26. The salaries and allowances payable to, and other terms and conditions of service of, the Members shall be such as may be prescribed by the State Government :

Provided that neither the salary and allowances nor the other terms and conditions of service of a Memer shall be varied to his desadvantage after his appointment.

Officers and other staff of the State Commission.

27. (*1*) The State Government shall make available to the Commission—

(*a*) an officer not below the rank of a Secretary to the State Government who shall be the Secretary of the State Commission; and

(*b*) such police and investigative staff under an officer not below the rank of an Inspector General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the State Commission.

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(2) Subject to such rules as may be made by the State Government in his behalf, the State Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed by the State Government.

Annual and special reports of State Commission.

28. (1) The State Commisson shall submit an annual report to the State Government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The State Government shall cause the annual and special reports of the State Commission to be laid before each House of State Lagislature where it consist of two Houses, or where such Legislature consists of one House, before that House along with a memorandum of action taken or proposed to be taken on the recommendations of the State Commission and the reasons for non- acceptance of the recommendations, if any.

Application of certain provisions relating to National Human Rights Commission to State Commissions.

29. The provisions of section 9, 10, 12, 13, 14,15, 16, 17 and 18 shall apply to a State Commission and shall have effect, subject to the following modifications, namely:—

(*a*) references to "Commission" shall be construed as references to "State Commi-, ssion";

(*b*) in section 19, n sub-section (3), for the word "Secretary-General", the word "Secretary" shall be substituted;

(*c*) in section 12, clause (*f*) shall be omitted;

(*d*) in section 17, in clause (*i*), the words "Central Government or any" shall be omitted.

CHAPTER VI

Human Rights Courts

Human Rights Courts.

30. For the purpose of providing speedy trial of offences arising out of violation of human rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district a Court of Session to be a Human Rights Court to try the said offences:

Provided that nothing in this section shall apply if—

(*a*) a Court of Session is already specified as a special court; or

(*b*) a special court is already constituted,

for such ofences under any other law for the time being in force.

Special Public Prosecutor.

31. For every Human Rights Court, the State Government shall, by notification, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years as a Special Public Prosecutor for the purpose of conducting cases in that Court.

CHAPTER VII

Finance, accounts and audit

Grants by the Central Government.

32. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf pay to the Commisson by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

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(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).

Grants by the State Government.

33. (1) The State Government shall, after due appropriation made by Legislature by law in this behalf, pay to the State Commission by way of grants such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

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

Accounts and audit.

34. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be 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 he 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 and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

Accounts and audit of State Commission.

35. (1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the State 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 State 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 State 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 State Commission.

(4) The accounts of the State 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 State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

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CHAPTER VIII

MISCELLANEOUS

Matters not subject to jurisdiction of the Commission.

36. (*1*) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

(*2*) The Commission or the State Commission shall not inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.

Constitution of special investigation teams.

37. Notwithstanding anything contained in any other law for the time being in force, where the Government considers it necessary so to do, it may constitute one or more special investigation teams, consisting of such police officers as it thinks necessary for purposes of investigation and prosecution of offences arising out of violations of human rights.

Protection of action taken in good faith.

38. No suit or other legal proceeding shall lie against the Central Government, State Government, Commission, the State Commission or any Member thereof or any person acting under the direction either of the Central Government, State Government, Commission or the State Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or any order made thereunder or in respect of the publication by or under the authority of the Central Government, State Government, Commission or the State Commission of any report, paper or proceedings.

Members and officers to be public servants.

39. Every Member of the Commission, State Commission and every officer appointed or authorised by the Commission or the State Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1960.

Power of Central Government to make rules.

40. (*1*) The Central Government may, by notification, make rules to carry out the provisions of this Act.

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

(*a*) the salaries and allowances and other terms and conditions of service of the Members under section 8 ;

(*b*) the conditions subject to which other administrative, technical and scientific staff may be appointed by the Commission and the salaries and allowances of officers and other staff under sub-section (3) of section 11 ;

(*c*) any other powers of a civil court required to be prescribed under clause (*f*) of sub-section (*1*) of section 13 ;

(*d*) the form in which the anual statement of accounts is to be prepared by the Commission under sub-section (*1*) of section 34; and

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

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

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Power of State Government to make rules.

41. (*1*) The State Government may, or by notification, make rules to carry out the provisions of this Act.

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

(*a*) the salaries and allowances and other terms and conditions of service of the Members under section 26 ;

(*b*) the conditions subject to which other administrative, technical and scientific staff may be appointed by the State Commission and the salaries and allowances of officers and other staff under sub- section (*3*) of section 27 ;

(*c*) the form in which the annual statement of accounts is to be prepared under sub-section (*1*) of section 35.

(*3*) Every rule made by the State Government under this section shall be laid as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House. before that House.

Power to remove difficulties.

42. (*1*) If any difficulty arises in giving effect to the provisions of this Act the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expendient for removing the difficulty ;

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Repeal sand avings.

43. (*1*) The Protection of Human Rights Ordinance, 1993 is hereby repealed. Ord. 30 of 1993.

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

Sd/—.
(Elligible)
Secretary to the Govt. of India,

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

KUM. H. K. JHAVERI,
Secreary to the Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 1st July, 1994.

No. RP/23/94/ /E :—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA,

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(LEGISLATIVE DEPARTMENT)

New Delhi, the 27th August, 1993.

The following Act of Parliament received the assent of the President on the 27th August, 1993/Bhadrapad 1, 1915 (Saka) and is hereby published for general information :

THE PREVENTION OF ILLICIT TRAFFIC IN NAROCTIC DRUGS AND PSYCHOTROPIC SUBSTANCES (AMENDMENT) ACT, 1993

[Act. No. 53 of 1993] *AN ACT* [27th August, 1993]

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

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

Short title and commencement.

1. (*1*) This Act may be called the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1993.

(*2*) It shall be deemed to have come into force on the 30th day of June, 1993.

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Amendment 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-secton (1), for the figures, letters and words "31st day of July, 1993", the figures, letters and words, "31st dat of July, 1996" shall be substituted.

Repeal and saving.

3. (*1*) The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Amendment) Ordinance, 1993, is hereby repealed. Ord. 27 of 1993.

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

Sd/-
SHRI K. L. MOHANPURIA,
Secretary to the Govt. of India.

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

Kum. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 19th July, 1994.

No. : RP/56/94/Act-1/94/ /E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 4th January, 1994.

The following Act of Parliament received the assent of the President on the 4th January, 1994/Paush 14, 1915 (Saka) and is hereby published for general information:

THE GOVERNORS (EMOLUMENTS, ALLOWANCES AND PRIVILEGES) AMENDMENT ACT, 1993.

[4th January, 1994]

[Act No 1 of 1994]

AN ACT

further to amend the Governors (Emoluments, Allowances and Privileges Act, 1982.

BE it enacted by Parliament in the Forty fourth of the Republic of India as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Governors (Emoluments, Allowances and Privileges) Amendment Act, 1993.

(*2*) It shall be deemed to have come into force on the 1st day of June, 1988.

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Amendment of Section 3 of Act, 43 of 1982.

2. In section 3 of the Governors (Emoluments, Allowances and Privileges) Act, 1982, in the proviso, in clause (*a*),—

(*a*) in sub-clause (ii), for the word "and", occurring at the end, the word "or" shall be substituted;

(*b*) sub-clause (*iii*) shall be omitted.

Sd/-
K. L. MOHANPURIA,
Secretary to the Government of India.

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

Kum. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 28th July, 1994.

No. : RP/57/94/ACT-70/94/ /E : The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(LEGISLATIVE DEPARTMENT)

New Delhi the 27th December, 1993

The following Act of Parliament received the assent of the President on the 26th December, 1993/Paush 5, 1915 (Saka) and is hereby published for gneneral information ;

THE ADVOCATES (AMENDMENT) ACT, 1993

[Act No. 70 of 1993] [27th December, 1993]

AN ACT

further to amend the Advocates Act, 1961.

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

1. This Act may be called the Advocates (Amendment) Act, 1993. Short title.

25 of 1961. 2. In section 6 of the Advocates Act, 1961 (hereinafter referred to as the principal Act) ,— Amendment of section 6.

(*i*) in sub-section (1),—

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

"(*dd*) to promote the growth of Bar Associations for the purposes of effective implementation of the welfare schemes referred to in clause (*a*) of sub-section (*2*) of this section and clause (*a*) of sub-section (*2*) of section 7;";

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

"(*gg*) to visit and inspect Universities in accordance with the directions given under clause (*i*) of sub-section (*1*) of section 7;";

(*ii*) in sub-section (*2*) after clause (*b*), following clause shall be inserted, namely:-

"(*c*) establishing law libraries.".

Amendment of section 7.

3. In section 7 of the principal Act,—

(*i*) in sub--section (*1*), in clause (*i*), after the words "inspect Universities", the words "or cause the State Bar Councils to visit and inspect Universities in accordance with such directions as it may give in this behalf" shall be added;

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

"(*c*) establishing law libraries.".

Substitution of new sections for section 8.

4. For section 8 of the principal Act, the following sections shall be substituted, namely :—

Term of office members of State Bar Council.

"8. The term of office of an elected members of a State Bar Council (other than an elected member thereof referred to in section 54) shall be five years from the date of publication of the result of his election :

Provided that where a State Bar Council fails to provide for the election of its members before the expiry of the said term, the Bar Council of India may, by order, for reasons to be recorded in writing, extend the said term for a period not exceeding six months.

Constitution of Special Committee in the absence of election.

8A. (*1*) Where a State Bar Council fails to provide for the elections of its members before the expiry of the term of five years or the extended term, as the case may be, referred to in section 8, the Bar Council of India shall, on and from the date immediately following the day of such expiry, constitute a Special Committee consisting of—

(*i*) the *ex officio* member of the State Bar Council referred to in clause (*a*) of sub--section (2) of section 3 to be the Chairman:

Provided that where there are more than one *ex officio* members, the senior most amongst them shall be the Chairman; and

(*ii*) two members to be nominated by the Bar Council of India from amongst advocates on the electoral roll of the State Bar Council,

to discharge the functions of the State Bar Council untill the Bar Council is constituted under this Act.

(*2*) On the constitution of the Special Committee and until the State Bar Bar Council is constituted—

(*a*) all properties and assests vesting in the State Bar Council shall vest in the Special Committee ;

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(*b*) all rights, liabilities and obligations of the State Bar Council, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations of the special committee;

(*c*) all proceedings pending before the State Bar Council in respect of any disciplinary matter or otherwise shall stand transferred to the Special Committee.

(*3*) The Special Committee constituted under sub-section (*1*) shall, in accordance with such directions as the Bar Council of India may give to it in this behalf hold elections to the State Bar Council within a period of six months from the date of its constitution under sub-section (*1*), and where, for any reason the Special Committee is not in a position to conduct election within the said period of six months, the Bar Council of India may for reasons to be recorded by it in writing extend the said period.".

Amendment of section 10A.

5. In section 10A of the principal Act, for sub-sections (*1*) and (*2*), the following sub-sections shall be substituted, namely ;—

"(*1*) The Bar Council of India shall meet at New Delhi or at such other place as it may, for reasons to be recorded in writing, determine.

(*2*) A State Bar Council shall meet at its headquaters or at such other places as it may, for reasons to be recorded in writing determine."

Amendment of section 24.

In section 24 of the principal Act, in clause (f) of sub-section (*1*),—

(*i*) in the opening portion, for the words, "two hundred and fifty rupees", the words "six hundred rupees and to the Bar Council of India, one hundred and fifty rupees by way of a bank draft drawn in favour of that Council" shall be substituted ;

(*ii*) in the proviso, for the words "one hundred and twenty-five rupees", the words "one hundred rupees and to the Bar Council of India, twenty five rupees" shall be substituted.

Amendment of section 24A.

7. In section 24A of the principal Act in sub-section (*1*),—

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

'(*c*) if he is dismissed or removed from employement or office under the State on any charge uvolving moral turpitude.

Explanation.—In this clause, the expression "State" shall have the meaning assigned to it under article 12 of the Constitution;";

(*ii*) in the proviso, for the word "release", the words "released or dismissal or, as the case may be, removal" shall be substituted.

Omission of section 46.

8. Section 46 of the principal Act shall be omitted.

Amendment of section 52.

9. In section 52 of the principal Act in clause (b), for the word "act", the words "act or plead" shall be substituted.

Sd/—
A. C. C. UNNI,
Addl. Secty. to the Govt. of India.

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

Sd/—
KUM. H. K. JHAVERI,
Secretary to Government.

———

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PART—VI

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GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,

Sachivalaya, Gandhinagar, 31st August, 1994.

No. RP/56/94/Act-2/93/51/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

[LEGISLATIVE DEPARTMENT]

New Delhi, the 4th January, 1994.

The following Act of Parliament received the assent of the President on the 4th January, 1994/Paush 14, 1915 (Saka) and is hearby published for general information :

THE HIGH COURT AND SUPREME COURT JUDGES (CONDITIONS OF SERVICE) AMENDMENT ACT, 1993.

[4th January, 1994]

[Act No. 2 of 1994]

An Act

further to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958.

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

Short title and commencement.

1. (*1*) This Act may be called the High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1993.

(*2*) It shall be deemed to have come into force on the 1st day of April, 1986.

Amendment of section 22D of Act 28 of 1954.

2. In the High Court Judges (Conditions of Service) Act, 1954, in section 22D, after clause (*c*), the following clause shall be inserted, namely:—

"(*d*) the value of leave travel concession provided to a Judge and members of his family,".

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Amend-ment of section 23D of Act 41 of 1958.

3. In the Supreme Court Judges (Conditions of Service) Act, 1958, in section 23D, after clause (c), the following clause shall be inserted, namely:—

"(d) the value of leave travel concession provided to a Judge and members of his family,".

Sd/-
K. L. MOHANPURIA,
Secretary to the Government of India.

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

Sd/--
Kum. H. K. JHAVERI,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,

Sachivalaya, Gandhinagar, 31st August, 1994.

No. RP/48/94/Act-73/93/53/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

[LEGISLATIVE DEPARTMENT]

New Delhi, the 30th December, 1993.

The following Act of Parliament received the assent of the President on the 29th December, 1993/Paush 8, 1915 (Saka) and is hearby published for general information :

THE NATIONAL COUNCIL FOR TEACHER EDUCATION ACT, 1993.

[Act No. 73 of 1993] *[29th December, 1993]*

An Act

to provide for the establishment of a National Council for Teacher Education with a view to achieving planned and co-ordinated development of the teacher education system throughout the country, the regulation and proper maintenance of norms and standards in the teacher education system and for matters connected therewith.

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

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the National Council for Teacher Education Act, 1993.

(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.

Definitions.

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

(*a*) "appointed day" means the date of establishment of the National Council for Teacher Education under sub-section (*1*) of section 3;

(*b*) "Chairperson" means the Chairperson of the Council appointed under clause (*a*) of sub-section (*4*) of section 3;

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(c) "Council" means the National Council for Teacher Education established under sub-section (*1*) of section 3;

(d) "examining body" means a University, agency or authority to which an institution is affiliated for conducting examinations in teacher education qualifications;

(e) "institution" means an institution which offers courses or training in teacher education;

(f) "Member" means a Member of the Council and includes the Chairperson and Vice-Chairperson;

(g) "Member-Secretary" means the Member-Secretary of the Council appointed under clause (c) of sub-section (*4*) of section 3;

(h) "prescribed" means prescribed by rules made under section 31;

(i) "recognised institution" means an institution recognised by the Council under section 14;

(j) "Regional Committee" means a committee established under section 20;

(k) "regulations" means regulations made under section 32;

(l) "teacher education" means programmes of education, research or training of persons for equipping them to teach at pre-primary, primary, secondary and senior secondary stages in schools, and includes non-formal education, part-time education, adult education and correspondence education;

(m) "teacher education qualification" means a degree, diploma or certificate in teacher education awarded by a University or examining body in accordance with the provisions of this Act;

(n) "University" means a University defined under clause (f) of section 2 of the University Grants Commission Act, 1956, and includes an institution deemed to be a University under section 3 of that Act; 3 of 1956.

(o) "Vice-Chairperson" means the Vice-Chairperson of the Council appointed under clause (b) of sub-section (*4*) of section 3.

CHAPTER II

ESTABLISHMENT OF THE COUNCIL

Establishment of the Council.

3. (*1*) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established a Council to be called the National Council for Teacher Education.

(*2*) The Council shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to contract and shall, by the said name, sue and be sued.

(*3*) The head office of the Council shall be at Delhi and the Council may, with the previous approval of the Central Government, establish regional offices at other places in India.

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(4) The Council shall consist of the following Members, namely:—

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

(b) a Vice-Chairperson to be appointed by the Central Government;

(c) a Member-Secretary to be appointed by the Central Government;

(d) the Secretary to the Government of India in the Department dealing with Education, *ex officio*;

(e) the Chairman, University Grants Commission established under section 4 of the University Grants Commission Act, 1956 or a member thereof nominated by him, *ex officio*; 3 of 1956.

(f) the Director, National Council of Educational Research and Training, *ex officio*;

(g) the Director, National Institute of Educational Planning and Administration, *ex officio*;

(h) the Adviser (Education), Planning Commission, *ex officio*;

(i) the Chairman, Central Boards of Secondary Education, *ex officio*;

(j) the Financial Adviser to the Government of India in the Department dealing with Education, *ex officio*;

(k) the Member-Secretary, All-India Council for Technical Education, *ex officio*;

(l) the Chairpersons of all Regional Committees, *ex officio*;

(m) thirteen persons possessing experience and knowledge in the field of education or teaching to be appointed by the Central Government as under, from amongst the—

(i) Deans of Faculties of Education and Professors of Education in Universities —Four;

(ii) experts in secondary teacher education —One;

(iii) experts in pre-primary and primary teacher education —Three;

(iv) experts in non-formal education and adult education —Two;

(v) experts in the field of natural sciences, social sciences, linguistics, vocational education, work experience, educational technology and special education, by rotation, in the manner prescribed —Three;

(n) nine Members to be appointed by the Central Government to represent the States and the Union territory Administrations in the manner prescribed;

(o) three Members of Parliament of whom one shall be nominated by the Chairman of the Council of States and two by the Speaker of the House of the People;

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(*p*) three Members to be appointed by the Central Government from amongst teachers of primary and secondary education and teachers of recognised institutions.

(*5*) It is hereby declared that the office of the Member of the Council shall not disqualify its holder for being chosen as or for being a member of either House of Parliament.

Term of office and conditions of service of Members.

4. (*1*) The Chairperson, Vice-Chairperson and the Member-Secretary shall hold office on a full-time basis.

(*2*) The term of office of the Chairperson, the Vice-Chairperson and the Member-Secretary shall be four years, or till they complete the age of sixty years, whichever is earlier.

(*3*) The conditions of service of the Chairperson, the Vice-Chairperson and the Member-Secretary shall be such as may be prescribed.

(*4*) The term of office of Members [other than the Members specified in clauses (*a*) to (*l*) and clauses (*n*) and (*o*) of sub-section (*4*) of section 3] shall be two years or till fresh appointments are made, whichever is later, and other conditions of service of such Members shall be such as may be prescribed.

(*5*) If a casual vacancy occurs in the office of Chairperson, whether by reason of death, resignation or inability to discharge the functions of a Chairperson owing to illness or other incapacity, the Vice-Chairperson holding office as such for the time being, shall act as the Chairperson and shall, unless any other person is appointed earlier as Chairperson, hold office of the Chairperson for the remainder of the term of office of the person in whose place the said person is to so act.

(*6*) If a casual vacancy occurs in the office of the Vice-Chairperson or any other Member, whether by reason of death, resignation or inability to discharge his functions owing to illness or other incapacity, such vacancy shall be filled up by making fresh appointment and the person so appointed shall hold office for the remainder of the term of the office of the person in whose place such person is so appointed.

(*7*) The Chairperson shall, in addition to presiding over the meetings of the Council, exercise and discharge such powers and duties of the Council as may be delegated to him by the Council and such other powers and duties as may be prescribed.

(*8*) The Vice-Chairperson shall perform such functions as may be assigned to him by the Chairperson from time to time.

Disqualification for office of Member.

5. A person shall be disqualified for being appointed as a Member if he—

(*a*) has been convicted and sentenced to imprisonment for an offence, which, in the opinion of the Central Government, involves moral turpitude; or

(*b*) is an undischarged insolvent; or

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

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has in the opinion of the Central Government such financial or other interest in the Council as is likely to affect prejudicially the discharge by him of his functions as a Member.

Vacation of office of Member

6. The Central Government shall remove a Member if he—

(a) becomes subject to any of the disqualifications mentioned in section 5:

Provided that no Member shall be removed on the ground that he has become subject to the disqualification mentioned in clause (e) of that section, unless he has been given a reasonable opportunity of being heard in the matter; or

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

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

(d) in the opinion of the Central Government, has so abused his position as to render his continuance in office detrimental to the public interest:

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

Meetings of the Council.

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

Provided that the Council shall meet at least once every year.

(2) The Chairperson, and in the absence of the Chairperson, the Vice-Chairperson shall preside at the meetings of the Council.

(3) If for any reason the Chairperson and the Vice-Chairperson, both are unable to attend any meeting of the Council, any other Member chosen by the Members present at the meeting shall preside at that meeting.

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

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

8. No act or proceeding of the Council shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Council; or

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

(c) any irregularity in the procedure of the Council not affecting the merits of the case.

Power to co-opt.

9. (1) The Council may co-opt, in such manner and for such purposes as may be determined by regulations, not more than three persons, whose assistance or advice it may desire in carrying out any of the provisions of this Act.

(2) The person co-opted by the Council under sub-section (1) for any purpose shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the Council, and shall not be a Member for any other purpose.

Appointment of officers and other employees of the Council.

10. (1) For the purpose of enabling the Council to discharge its functions efficiently under this Act, the Council shall, subject to such regulations as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary:

Provided that the category of posts equivalent to Group 'A' posts in the Central Government shall be subject to the approval of the Central Government.

(2) Every officer or other employee appointed by the Council shall be subject to such conditions of service as may be determined by regulations.

Authentication of the orders and other instruments of the Council.

11. All orders and decisions of the Council shall be authenticated by the signature of the Chairperson or any other Member authorised by the Council in this behalf, and all other instruments issued by the Council shall be authenticated by the signature of the Member-Secretary or any other officer of the Council authorised in like manner in this behalf by the Chairperson.

CHAPTER III

FUNCTIONS OF THE COUNCIL

Functions of the Council.

12. It shall be the duty of the Council to take all such steps as it may think fit for ensuring planned and co-ordinated development of teacher education and for the determination and maintenance of standards for teacher education and for the purposes of performing its functions under this Act, the Council may—

(a) undertake surveys and studies relating to various aspects of teacher education and publish the result thereof;

(b) make recommendations to the Central and State Governments, Universities, University Grants Commission and recognised institutions in the matter of preparation of suitable plans and programmes in the field of teacher education;

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(*c*) co-ordinate and monitor teacher education and its development in the country;

(*d*) lay down guidelines in respect of minimum qualifications for a person to be employed as a teacher in schools or in recognised institutions;

(*e*) lay down norms for any specified category of courses or trainings in teacher education, including the minimum eligibility criteria for admission thereof, and the method of selection of candidates, duration of the course, course contents and mode of curriculum;

(*f*) lay down guidelines for compliance by recognised institutions, for starting new courses or training, and for providing physical and instructional facilities, staffing pattern and staff qualifications;

(*g*) lay down standards in respect of examinations leading to teacher education qualifications, criteria for admission to such examinations and schemes of courses or training;

(*h*) lay down guidelines regarding tuition fees and other fees chargeable by recognised institutions;

(*i*) promote and conduct innovation and research in various areas of teacher education and disseminate the results thereof;

(*j*) examine and review periodically the implementation of the norms, guidelines and standards laid down by the Council, and to suitably advise the recognised institutions;

(*k*) evolve suitable performance appraisal systems, norms and mechanisms for enforcing accountability on recognised institutions;

(*l*) formulate schemes for various levels of teacher education, and identify recognised institutions and set up new institutions for teacher development programmes;

(*m*) take all necessary steps to prevent commercialisation of teacher education; and

(*n*) perform such other functions as may be entrusted to it by the Central Government.

Inspection.

13. (*1*) For the purposes of ascertaining whether the recognised institutions are functioning in accordance with the provisions of this Act, the Council may cause inspection of any such institution, to be made by such persons as it may direct, and in such manner as may be prescribed.

(2) The Council shall communicate to the institution the date on which inspection under sub-section (*1*) is to be made and the institution shall be entitled to be associated with the inspection in such manner as may be prescribed.

(3) The Council shall communicate to the said institution, its views in regard to the results of any such inspection and may, after ascertaining the opinion of that institution, recommend to that institution the action to be taken as a result of such inspection.

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(4) All communications to the institution under this section shall be made to the executive authority thereof, and the executive authority of the institution shall report to the Council the action, if any, which is proposed to be taken for the purposes of implementing any such recommendation as is referred to in sub-section (3).

CHAPTER IV

RECOGNITION OF TEACHER EDUCATION INSTITUTIONS

Recognition of institutions offering course or training in teacher education.

14. (1) Every institution offering or intending to offer a course or training in teacher education on or after the appointed day, may, for grant of recognition under this Act, make an application to the Regional Committee concerned in such form and in such manner as may be determined by regulations:

Provided that an institution offering a course or training in teacher education immediately before the appointed day, shall be entitled to continue such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the Regional Committee.

(2) The fee to be paid along with the application under sub-section (1) shall be such as may be prescribed.

(3) On receipt of an application by the Regional Committee from any institution under sub-section (1), and after obtaining from the institution concerned such other particulars as it may consider necessary, it shall,—

(a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education, as may be detemined by regulations, pass an order granting recognition to such institution, subject to such conditions as may be determined by regulations; or

(b) if it is of the opinion that such institution does not fulfil the requirements laid down in sub-clause (a), pass an order refusing recognition to such institution for reasons to be recorded in writing:

Provided that before passing an order under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the concerned institution for making a written representation.

(4) Every order granting or refusing recognition to an institution for a course or training in teacher education under sub-section (3) shall be published in the Official Gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government.

(5) Every institution, in respect of which recognition has been refused shall discontinue the course or training in teacher education from the end of the academic session next following the date of receipt of the order refusing recognition passed under clause (b) of sub-section (3).

(6) Every examining body shall, on receipt of the order under sub-section (4),—

(a) grant affiliation to the institution, where recognition has been granted; or

(b) cancel the affiliation of the institution, where recognition has been refused.

Permission for a new course or training by recognised institution.

15. (1) Where any recognised institution intends to start any new course or training in teacher education, it may make an application to seek permission therefor to the Regional Committee concerned in such form and in such manner as may be determined by regulations.

(2) The fees to be paid along with the application under sub-section (1) shall be such as may be prescribed.

(3) On receipt of an application from an institution under sub-section (1), and after obtaining from the recognised institution such other particulars as may be considered necessary, the Regional Committee shall,—

(a) if it is satisfied that such recognised institution has adequate financial resources, accommodation, library, qualified staff, laboratory, and that it fulfils such other conditions required for proper conduct of the new course or training in teacher education, as may be determined by regulations, pass an order granting permission, subject to such conditions as may be determined by regulation; or

(b) if it is of the opinion that such institution does not fulfil the requirements laid down in sub-clause (a), pass an order refusing permission to such institution, for reasons to be recorded in writing:

Provided that before passing an order refusing permission under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the institution concerned for making a written representation.

(4) Every order granting or refusing permission to a recognised institution for a new course or training in teacher education under sub-section (3), shall be published in the Official Gazette and communicated in writing for appropriate action to such recognised institution and to the concerned examining body, the local authority, the State Government and the Central Government.

Affiliating body to grant affiliation after recognition or permission by the Council.

16. Notwithstanding anything contained in any other law for the time being in force, no examining body shall, on or after the appointed day,—

(a) grant affiliation, whether provisional or otherwise, to any institution; or

(b) hold examination, whether provisional or otherwise, for a course or training conducted by a recognised institution,

unless the institution concerned has obtained recognition from the Regional Committee concerned, under section 14 or permission for a course or training under section 15.

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Contravention of provisions of the Act and consequences thereof.

17. (*1*) Where the Regional Committee is, on its own motion or on any representation received from any person, satisfied that a recognised institution has contravened any of the provisions of this Act, or the rules, regulations, orders made or issued thereunder, or any condition subject to which recognition under sub-section (*3*) of section 14 or permission under sub-section (*3*) of section 15 was granted, it may withdraw recognition of such recognised institution, for reasons to be recorded in writing:

Provided that no such order against the recognised institution shall be passed unless a reasonable opportunity of making representation against the proposed order has been given to such recognised institution:

Provided further that the order withdrawing or refusing recognition passed by the Regional Committee shall come into force only with effect from the end of the academic session next following the date of communication of such order.

(*2*) A copy of every order passed by the Regional Committee under sub-section (*1*),—

(*a*) shall be communicated to the recognised institution concerned and a copy thereof shall also be forwarded simultaneously to the University or the examining body to which such institution was affiliated for cancelling affiliation; and

(*b*) shall be published in the Official Gazette for general information.

(*3*) Once the recognition of a recognised institution is withdrawn under sub-section (*1*), such institution shall discontinue the course or training in teacher education, and the concerned University or the examining body shall cancel affiliation of the institution in accordance with the order passed under sub-section (*1*), with effect from the end of the academic session next following the date of communication of the said order.

(*4*) If an institution offers any course or training in teacher education after the coming into force of the order withdrawing recognition under sub-section (*1*), or where an institution offering a course or training in teacher education immediately before the appointed day fails or neglects to obtain recognition or permission under this Act, the qualification in teacher education obtained pursuant to such course or training or after undertaking a course or training in such institution, shall not be treated as a valid qualification for purposes of employment under the Central Government, any State Government or University, or in any school, college or other educational body aided by the Central Government or any State Government.

Appeals.

18. (*1*) Any person aggrieved by an order made under section 14 or section 15 or section 17 of the Act may prefer an appeal to the Council within such period as may be prescribed.

(*2*) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor, if the appellant satisfies the Council that he

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had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disallowing an appeal, the appellant shall be given a reasonable opportunity to represent its case.

(5) The Council may confirm or reverse the order appealed against.

CHAPTER V

Bodies of the Council

Executive Committee.

19. (1) The Council shall constitute a Committee, called the Executive Committee for discharging such functions as may be assigned to it by the Council or as may be determined by regulations.

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

(a) the Chairperson;

(b) the Vice-Chairperson;

(c) the Member-Secretary;

(d) the Secretary to the Government of India in the Department dealing with Education, *ex officio*;

(e) the Secretary, University Grants Commission, *ex officio*;

(f) the Director, National Council of Educational Research and Training, *ex-officio*;

(g) the Financial Adviser to the Government of India in the Department dealing with Education, *ex-officio*;

(h) four experts in teacher education to be nominated by the Central Government;

(i) four State representatives to be nominated by the Central Government in such manner as may be prescribed;

(j) the Chairpersons of the Regional Committees.

(3) The Chairperson and the Member-Secretary of the Council shall respectively, function as the Chairperson and the Member-Secretary of the Executive Committee.

(4) The Chairperson or in his absence, the Vice-Chairperson of the Council shall preside at the meetings of the Executive Committee and in the absence of both the Chairperson and the Vice-Chairperson, any other member chosen by the members present at the meeting shall preside at the meeting.

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(5) The quorum necessary for the transaction of business at the meetings of the Executive Committee shall be as laid down by regulations.

(6) The Executive Committee may co-opt, in such manner and for such purposes, as may be determined by regulations, not more than two persons whose assistance and advice it may desire in carrying out any of the functions assigned to the Executive Committee:

Provided that the persons co-opted by the Executive Committee for any purpose shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the Executive Committee, and shall not be a member for any other purpose.

(7) The Council may, if it considers necessary, establish such other committees, for such specific purpose, as it may deem fit.

Regional Committees.

20. (1) The Council shall, by notification in the Official Gazette, establish the following Regional Committees, namely:—

(*i*) the Eastern Regional Committee;

(*ii*) the Western Regional Committee;

(*iii*) the Northern Regional Committee; and

(*iv*) the Southern Regional Committee.

(2) The Council may, if it considers necessary, establish with the approval of the Central Government, such other Regional Committees as it may deem fit.

(3) The Regional Committee shall consist of the following members, namely:

(*a*) a Member to be nominated by the Council;

(*b*) one representative from each of the States and the Union territories of the region, to be nominated by the respective States and the Union territories:

(c) such number of persons, having special knowledge and experience in matters relating to teacher education, as may be determined by regulations.

(4) The Council shall nominate one of the members of the concerned Regional Committee to function as the chairperson of the said Committee.

(5) The term of office of the members referred to in clause (c) and the allowances payable to such members shall be such as may be determined by regulations.

(6) The Regional Committee shall, in addition to its functions under sections 14, 15 and 17, perform such other functions, as may be assigned to it by the Council or as may be determined by regulations.

(7) The functions of, the procedure to be followed by, the territorial jurisdiction of, and the manner of filling casual vacancies among members of, a Regional Committee shall be such as may be determined by regulations.

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Power to terminate the Regional Committee.

21. (1) If the Council is of the opinion that a Regional Committee is unable to perform, or has persistently made default in the performance of the duties imposed on it by or under this Act or has exceeded or abused its powers, or has wilfully or without sufficient cause, failed to comply with any direction issued by the Council for carrying out the provisions of this Act, the Council may, by notification in the Official Gazette, terminate forthwith the Regional Committee.

(2) Upon the publication of a notification under sub-section (1),—

(a) all members of the Regional Committee shall, notwithstanding that their term of office had not expired, as from the date of the termination, vacate their office as such members; and

(b) all the powers and duties which may, by or under the provisions of this Act be exercised or performed by or on behalf of the Regional Committee shall, during the period when the term of office of its members stand terminated, be exercised and performed by such person or persons as the Council may direct.

(3) The Council may at any time after publication of a notification under sub-section (2), re-constitute the Regional Committee in the manner provided in sub-section (3) of section 20:

Provided that it shall be competent for the Council to appoint any person, who was a member of a Regional Committee which was terminated, as a member of the re-constituted Regional Committee.

CHAPTER VI

Finance Accounts and Audit

Payment to the Council.

22. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Council in each financial year such sums as may be considered necessary for the performance of the functions of the Council under this Act.

Fund of the Council.

23. (1) The Council shall have its own fund; and all sums which may, from time to time, be paid to it by the Central Government or a State Government and all the receipts of the Council, including any sum which any other authority or person in India or abroad may pay to the Council, shall be credited to the fund and all payments by the Council shall be made therefrom.

(2) All moneys belonging to the fund shall be deposited in such banks or invested in such manner as may be decided by the Council.

(3) The Council 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 Council.

Budget of the Council.

24. The Council shall prepare, in such form and at such time each year as may be prescribed, a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure, and copies thereof shall be forwarded to the Central Government.

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Annual report.

25. The Council shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving a true and 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 both Houses of Parliament.

Accounts and audit.

26. (1) The Council shall cause to be maintained such books of account in such form and in such manner as the Central Government may, in consultation with the Comptroller and Auditor-General of India, prescribe.

(2) The Council shall, as soon as may be, after closing its annual accounts, prepare a statement of accounts in such form and forward the same to the Comptroller and Auditor-General of India by such date as the Central Government may, in consultation with the Comptroller and Auditor-General, determine.

(3) The accounts of the Council shall be audited by the Comptroller and Auditor-General of India at such times and in such manner as he thinks fit.

(4) The accounts of the Council 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 both Houses of Parliament.

CHAPTER VII

MISCELLANEOUS

Delegation of powers and functions.

27. The Council may, by general or special order in writing, delegate to the chairperson or to any other member or to any officer of the Regional Committee, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to make regulations under section 32), as it may deem necessary.

Protection of action taken in good faith.

28. No prosecution or other legal proceeding shall lie against the Central Government, the Council or any committees appointed by it, or any Member of the Council or member of such committees, or any officer or employee of the Central Government or the Council or any other person authorised by that Government or the Council, for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Directions by the Central Government.

29. (1) The Council shall, in the discharge of its functions asd duties under this Act be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.

(2) The decision of the Central Government as to whether a question is one of policy or not shall be final.

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Power to supersede the Council.

30. (1) If the Central Government is of the opinion that the Council is unable to perform, or has persistently made default in the performance of the duties imposed on it by or under this Act or has exceeded or abused its powers, or has wilfully or without sufficient cause, failed to comply with any direction issued by the Central Government under section 29, the Central Government may, by notification in the Official Gazette, supersede the Council for such period as may be specified in the notification:

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

(2) Upon the publication of a notification under sub-section (1) superseding the Council—

(a) all the Members of the Council shall, notwithstanding that their term of office had not expired, as from the date of supersession, vacate their offices as such Members;

(b) all the powers and duties which may, by or under the provisions of this Act be exercised or performed by or on behalf of the Council shall, during the period of supersession, be exercised and performed by such person or persons as the Central Government may direct;

(c) all property vested in the Council shall, during the period of supersession, vest in the Central Government.

(3) On the expiry of the period of supersession specified in the notification issued under sub-section (1), the Central Government may—

(a) extend the period of supersession for such further period as it may consider necessary; or

(b) reconstitute the Council in the manner provided in section 3.

Power to make rules.

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

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

(a) the manner in which the Central Government is to appoint experts to the Council under sub-clause (v) of clause (m) of sub-section (4) of section 3;

(b) the manner in which the Central Government is to appoint Members to the Council from amongst the States and the Union territory Administrations under clause (n) of sub-section (4) of section 3;

(c) the conditions of service of the Chairperson, the Vice-Chairperson and the Member-Secretary under Sub-section (3) and of Members under sub-section (4) of section 4:

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(*d*) the powers and duties of the Chairperson under sub-section (7) of section 4;

(*e*) the manner in which and the persons by whom the inspection of an institution is to be made and the manner in which the institution is to be associated in such inspection under sub-sections (*1*) and (*2*) of section 13;

(*f*) the fees payable on application for obtaining recognition under sub-section (*2*) of section 14 and for obtaining permission under sub-section (*2*) of section 15;

(*g*) the period of limitation for an appeal under sub-section (*1*) of section 18, the form in which such appeal is to be made and the fees payable therefor under sub-section (*3*) of that section and the procedure for disposal of an appeal under sub-section (*4*) of that section;

(*h*) the manner in which the Central Government is to nominate the State representatives in the Executive Committee under clause (*i*) of sub-section (*2*) of section 19;

(*i*) the form in which and the time within which the budget under section 24 and the annual report under section 25 of the Council is to be prepared;

(*j*) the manner and the form in which the accounts of the Council are to be maintained under sub-section (*1*) of section 26;

(*k*) any other matter which has to be, or may be, prescribed.

Power to make regulations.

32. (*1*) The Council may, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, generally to carry out the provisions of this Act.

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

(*a*) the time and the place of the meetings of the Council and the procedure for conducting business thereat under sub-section (*1*) of section 7;

(*b*) the manner in which and the purposes for which persons may be co-opted by the Council under sub-section (1) of section 9;

(*c*) the appointment and terms and conditions of service of officers and other employees of the Council under sub-sections (*1*) and (*2*) respectively of section 10;

(*d*) the norms, guidelines and standards in respect of—

(*i*) the minimum qualifications for a person to be employed as a teacher under clause (*d*) of section 12;

(*ii*) the specified category of courses or training in teacher education under clause (*e*) of section 12;

(*iii*) starting of new courses or training in recognised institutions under clause (*f*) of section 12;

(*iv*) standards in respect of examinations leading to teacher education qualifications referred to in clause (*g*) of section 12;

(*v*) the tution fees and other fees chargeable by institutions under clause (*h*) of section 12;

(*vi*) the schemes for various levels of teacher education, and identification of institutions for offering teacher development programmes under clause (*l*) of section 12;

(*e*) the form and the manner in which an application for recognition is to be submitted under sub-section (*1*) of section 14;

(*f*) conditions required for the proper functioning of the institution and conditions for granting recognition under clause (*a*) of sub-section (*3*) of section 14;

(*g*) the form and the manner in which an application for permission is to be made under sub-section (*1*) of section 15;

(*h*) conditions required for the proper conduct of a new course or training and conditions for granting permission under clause (*a*) of sub-section (*3*) of section 15;

(*i*) the functions which may be assigned by the Council to the Executive Committee under sub-section (*1*) of section 19;

(*j*) the procedure and the quorum necessary for transaction of business at the meetings of the Executive Committee under sub-section (5) of section 19;

(*k*) the manner in which and the purposes for which the Executive Committee may co-opt persons under sub-section (*6*) of section 19;

(*l*) the number of persons under clause (*c*) of sub-section (*3*) of section 20;

(*m*) the term of office and allowances payable to members under sub-section (*5*) of section 20;

(*n*) additional functions to be performed by the Regional Committee under sub-section (*6*) of section 20;

(*o*) the functions of, the procedure to be followed by, the territorial jurisdiction of, and the manner of filling casual vacancies among members of, a Regional Committee under sub-section (*7*) of section 20;

(*p*) any other matter in respect of which provision is to be, or may be, made by regulations.

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Rules and regulations to be laid before Parliament.

33. 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.

Power to remove difficulties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

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

Sd/-
K. L. MOHANPURIA,
Secretary to the Government of India.

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

Sd/-
Kum. H. K. JHAVERI,
Secretary to Government.

Government Central Press, Gandhinagar.

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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.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 1st September, 1994.

No. RP/47/93/Act-12/94/54/E.–The following Act of parliament is re-published for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(LEGISLATIVE DEPARTMENT)

New Delhi, the 1st February, 1994.

The following Act of Parliament received the assent of the president on the 1st February, 1994/Magh 12, 1915 (Saka) and is hereby published for general information.

THE SICK INDUSTRIAL COMPANIES (SPECIAL PROVISIONS) AMENDMENT ACT, 1993

[Act 12 of 1994] [1st February, 1994]

AN ACT

further to amend the Sick Industrial Companies (Special Provisions) Act, 1985

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows.–

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Short title.

1. This Act may be called the Sick Industrial Companies (Special Provisions) Amendment Act, 1993.

Amendment of section 3.

2. In section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 (hereinafter referred to as the principal Act), in sub-section (*1*).– 1of1986.

(*i*) after clause (*d*), the following clause shall be inserted, namely–

(*da*) "date of finalisation of the duty audited accounts" means the date on which the audited accounts of the company are adopted at the annual general meeting of the company;';

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

'(*ga*) "net worth" means the sum total of the paid-up capital and free reserves.

Explanation.–For the purposes of this clause, "free reserves" means all reserves credited out of the profit and share premium account but does not include reserves credited out of re-ovaluation of assets, write back of depreciation provisions and amalgamation;

(*iii*) for clause (*i*), the following clause shall be substituted, namely:–

(*i*) "operating agency" means any public financial institution, State level institution, scheduled bank or any other person as may be specified by general or special order as its agency by the Board;';

(*iv*) clause (*k*) shall be omitted;

(*v*) for clause (*o*), the following clause shall be substituted, namely:

(*o*) "sick industrial company" means an industrial company (being a company registered for not less than five years) which has at the end of any financial year accumulated losses equal to or exceeding its entire net worth.

Explanation.–For the removal of doubts, it is hereby declared that an industrial company existing immediately before the commencement of the Sick Industrial Companies (Special Provisions) Amendment Act, 1993, registered for not less than five years and having at the end of any financial year accumulated losses equal to or exceeding its entire net worth shall be deemed to be a sick industrial company;'.

Amendment of section 8.

3. In section 8 of the principal Act, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) The Central Government may provide the Board and the Appellate Authority with such other Officers and employees as may be necessary for the effiient performance of the functions of the Board and the Appellate Authority."

Amendment of section 12.

4. In section 12 of the principal Act, for sub-section (*3*), the following sub-section shall be substituted, namely–

"(*3*) If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and make a reference to the Chairman of the Board or, as the case may be, the Appellate Authority who shall either hear the point or points

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himself or refer the case for hearing on such point or points by one or more of the other Members and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case including those who first heard it.".

Amendment of section 16.

5. In section 16 of the principal Act–

(*a*) in sub-section (*3*), the following *Explanation* shall be inserted at the end, namely:—

Explanation–For the purposes of this sub-section, an inquiry shall be deemed to have commenced upon the receipt by the Board of any reference of information or upon its own knowledge reduced to writing by the Board.";

(*b*) in sub-sectin (*4*).–

(*i*) for the words "it shall appoint", the words "if may appoint" shall be substitiuted,

(*ii*) the words "or in the public interest" shall be inserted at the end;.

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

"(*4A*) The Board may issue such directions to a special director appointed under sub-section (*4*) as it may deem necessary or expedient for proper discharge of his duties.":

(*d*) in sub-section (*6*), after clause (*c*), the following clause shall be inserted, namely;–

"(*d*) not be liable to be prosecuted under any law for anything done or omitted to be done in good faith in the discharge of his duties in relation to the sick industrial company.",

Amendment of section 17.

6. In section 17 of the principal Act,—

(*a*) in sub-section (*1*), (*2*) and (*3*), for the words "make its net worth positive", wherever they occur, the words "make its net worth exceed the accumulated losses" shall be substituted,

(*b*) in sub-section (*4*), in clause (*a*), after the words "by the company concerned," the words "or if the company fails to revive in pursuance of the said order," shall be inserted.

Amendment of section 18.

7. In section 18 of the principal Act–

(*a*) in sub-section (*1*),—

(*i*) for clause (*a*), the following clause shall be substituted, namely:–

"(*a*) the financial reconstruction of the sick industrial company;";

(*ii*) for clause (*c*), the following clause shall be substituted, namely:–

(*c*) the amalgamation of–

(*i*) the sick industrial company with any other company, or

(*ii*) any other company with the sick industrial company;

(hereafter in this section, in the case of sub-clause (*i*) the other company, and in the case of sub-clause (*ii*), the sick industrial company, referred to as "transferee company");";

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(*iii*) after clause (*d*), the following clause shall be inserted, namely:-

"(*da*) the rationalisation of managerial personnel, supervisory staff and workmen in accordance with law;";

(*b*) in sub-section (*2*) and the other sub-sections, for the words "transferee industrial company", wherever they occur, the words "transferee company" shall be substituted;

(*c*) in sub-section (*3*),—

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

"(*a*) The Scheme prepared by the operating agency shall be examined by the Board and a copy of the scheme with modification, if any, made by the Board shall be sent, in draft, to the sick industrial company and the operating agency and in the case of amalgamation, also to any other company concerned, and the Board shall publish or cause to be published the draft scheme in brief in such daily newspapers as the Board may consider necessary, for suggestions and objections, if any, within such period as the Board may specify;";

(*ii*) in clause (*b*),-

(*A*) for the words "any other industrial company", the words "any other company" shall be substituted;

(*B*) for the words "such industrial companies", the words "such companies" shall be substituted,

(*C*) in the proviso,-

(*i*) the words "of the sick industrial company" shall be omitted,

(*ii*) for the words "transferee industrial company", the words "the company other than the sick industrial company" shall be substituted.

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

"(*6A*) Where a sanctioned scheme provides for the transfer of any property or liability of the sick industrial company in favour of any other company or person or where such scheme provides for the transfer of any property or liability of any other company or person in favour of the sick industrial company, then, by virtue of, and to the extent provided in, the scheme, on and form the date of coming into operation of the sanctioned scheme or any provision thereof, the property shall be transferred to, and vest in, and the liability shall become the liability of, such other company or person or, as the case may be, the sick industrial company";

(*e*) for sub-section (*8*), the following sub-section shall be substituted, namely:-

"(*8*) On and from the date of the coming into operation of the sanctioned scheme or any provision thereof, the scheme or such provision shall be binding on the sick industrial company and the transferee company or, as the case may be, the other company and also on the shareholders, creditors and guarantors and employees of the said companies";

(*f*) in sub-section (*9*), after the words "the operating agency", the words "or otherwise" shall be inserted;

(*g*) after sub-section (*11*), the following sub-section shall be inserted, namely:-

"(*12*) The Board may monitor periodically the implementation of the sanctioned scheme.".

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Amend-ment of section19.

8. In section 19 of the principal Act,—

(*a*) in sub-section (2), after the words "form the date of such circulation", the words "or within such further period, not exceeding sixty days, as may be allowed by the Board, and if no consent is received within such period or further period, it shall be deemed that consent has been given" shall be inserted.

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

"(*3A*) On the sanction of the scheme under sub-section (3), the financial institutions and the banks required to provide financial assistance shall designate by mutual agreement a financial institution and a bank from amongst themselves which shall be responsible to disburse financial assistance by way of loans or advances or guarantees or reliefs or concessions or sacrifices agreed to be provided or granted under the scheme on behalf of all financial institutions and banks concerned.

(*3B*) The financial institution and the bank designated under sub-section (*3A*) shall forthwith proceed to release the financial assistance to the sick industrial company in fulfilment of the requirement in this regard"..

Insertion of new section 19A

9. After section 19 of the principal Act, the following section shall be inserted, namely:—

Arrange-ment for continuing operations, etc,during inquiry.

"*19A*. (*1*) At any time before completion of the inquiry under section 16, the sick industrial company or the Central Government or the Reserve Bank or a State Government or a public financial institution or a State level institution or a scheduled bank or any other institution, bank or authority providing or intending to provide any financial asistance by way of loans or advances or guarantees or reliefs or concessions to the sick industrial company may make an application to the Board–

(*a*) agreeing to an arrangement for continuing the operations of the sick industrial company; or

(*b*) suggesting a scheme for the financial reconstruction of the sick industrial company.

(2) The Board may, within sixty days of the receipt of the application under sub-section (*1*), pass such orders thereon as it may deem fit.".

Amend-ment of section 20

10. In section 20 of the principal Act, the for sub-section (*1*), the following sub-section shall be subsitiuted, namely:—

"(*1*) Where the Board, after making inquiry under section 16 and after consideration of all the relevant facts and circumstances and after giving an opportunity of being heard to all concerned parties is of opinion that the sick industrial company is not likely to make its networth exceed the accumulated losses within a reasonable time while meeting all its financial obligations and that the company as a result thereof is not likely to become vaiable in future and that it is just and equitable that the company should be would up, it may record and forward its opinion to the concerned High Court."

Amend-ment of section 21

11. In section 21 of the principal Act, —

(*a*) in the opening portion, for the words "in relation to an inquiry or scheme," the words, "for the proper discharge of the functions of the Board under this Act" shall be subsituted.

(*b*) in clause (a), for the words "an industrial company", the words "a company shall be subsiauted.

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Amendment of section-2.

12. In section 22 of the principal Act,—

(a) in sub section (*1*), after the words "appointment of a receiver in respect thereof," the words "and no suit for the recovery of money or for the enforcement of any security against the industrial company or of any guarantee in respect of any loans or advance granted to the industrial company "shall be inserted ;

(*b*) in sub-section (*2*), after the words "taken over or changed", sthe words and figures"in pursuance of any scheme sanctioned under section 18" shall be insertted;

(*c*) in sub-section (*3*) in the poeniog portion, for the words "During the period' figures"' Where an inquiry under section 16 of is pending or any scheme referred to in section 17 is under preparation or during the period" shall be subsituted.

Insertion of new section 22–A.

13. After section 22 of the principal Act, the following section shall be inserted, namely:—

Direction not to dispose of asets.

"22A. The Board may, if it is of opinion that nay direction is necessary in the interest of the sick, industrial company or creditors or shareholderes or in the public interest, by order in wiritng direct the sick industrial company not to disposed of, except with the consent of the Board, any of its assets,—

(*a*) during the period of preparation or consideration of the scheme under section 18; and

(*b*) during the period beginning with the recording of opinion by the Board for winding up of the company under sub-section (*1*) of section 20 and up to commencement of the proceedings relating to the winding up before the concerned High Court ;

Amendmeet of section 23,

14. In section 23 of the principal Act, in sub-section (*1*), in the opening portion, for the words "preceding five financial years" the words "preceding four financial years" shall be subsitututed.

Insertion of new section 23A.

15. After section 23 of the prinipal Act, the following section shall be inserted, namely:—

Proceedings on report, etc. of loss of fifty per cent, net worth.

"23A (*1*) Without prejudice to the provisions of clause (*a*) of sub-section (*1*) of section 23, the Central Government or the Reserve Bank, or a State Government or a public financial institution or a State level institution or scheduled bank may, if it has sufficient reasons to believe that the accumulated losses of any indusrial company have resulted in erosion of fifty per cent. or more of its peak net work undering the immediately preceding four financial years, report the fact of such erosion to the Board.

(*2*) If the Board has, upon information received or upon its own knowledge, reason to believe that the accumlated losses of any industrial company have resulted in erosion of fifty per cent. or more of its peak net worth during the immediately preceding four financial years, it any call for such information from that company as it may deem fit.

(*2*) Where the Board is of the opinion that an industrial, company referred to in sub-section (*1*) is not likely to make its net worth exceed its accumulated losses within a reasonable time while meeting all its financial onligations and that the company as a result thereof is notlikely to become viable in future it may require by order an operating agenct to inqiry into and make a report with respect to such matteres as may be specified in the order.

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(4) After consideration of the report of the operating agency, the Board may publish or cause to be published a notice insuch daily newspapers as the Board may consider necessary/for suggestions and objections, if any, within such period as the Board may specidy, as to why the company should not be wound up.

(5) Where the Board, after consideration of the relevant facts and circumstances and after iving an opportunity of being heard to all concerned parties, is of the opinion that the industrial commpany isnot likely to make its net worth exceed the accumulated losses within a resonable time while meeting all its financial obligations and tha tthe company as a result there of is not likly to become viable in future and that it is just and equitable that the company should be wound up, the Board may record and forward its opinion to the concerned High Court in relation to the Company as if it were a sick industrial company and the provisions of sub-sections (2), (3) and (4) of section 20 shall apply accordingly.

Power of Board to call for periodic information.

23B. On receipt of a report under sub-solause (i) of clause (a) of sub-section (1) of section 23 or under sub-section (1) of section 23A or upon information or its own knowledge under sub-section (2) of section 23A, the Board may call for any peeiodic information from the comoany as to the steps taken by the company to make its net worth exceed the accumulated losses and the company shall firnish such information."

Amendment of section 25.

16. In section 25 of the principal Act, in sub-section (2), the words "or remand the matter to the Board for fresh consideration" shall be added at the end.

Amendment of section 28.

17. In section 28 of the principal Act, in sub-section (2),—

(a) in clause (d), the word "or" shall be omittd ;

(b) in clause (e), the word 'or" shall be inserted at the end.

(c) after clause (e), as so amended, the following clause shall be inserted, namely:—

"(f) the sick industrial company and in case of amalgamation, the other company.".

Amendment of section 31

18. In section 31 of the principal Act, the words "and no proceeding in respect of such industrial company shall lie or be proceeded with further before the Board" shall be added at the end.

Amendment of section 32.

19. In section 32 of the principal Act, sub-section (3) shall be omitted.

Amendment of section 33.

20. In section 33 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) No court shall take cognizance of any offence under sub-section (1) except on a complaint in writing of the Secretary or any such other officer of the Board or the Appellate Authority or any such officer of an operating agency as may be authorised in this behalf by the Board or the Appellate Authority.".

Sd/—.
K. L. MOHANPURIA,
Secretary to Government of India.

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

Kum. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,

Sachivalaya, Gandhinagar, 1st September, 1994.

No. RP/49/94/Act-11/94/55/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

[LEGISLATIVE DEPARTMENT]

New Delhi, the 14th January, 1994.

The following Act of Parliament received the assent of the President on the14th January, 1994 /Paush 24, 1915 (Saka) and is hereby published for general information :

THE CENSUS (AMENDMENT)ACT, 1993

[Act No. 11 of 1994]

[14th January, 1994]

An Act

further to amend the Census Act, 1948.

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

1. This Act may be called the Census (Amendment) Act, 1993. Short title.

37 of 1948.

2. For section 2 of the Census Act, 1948 (hereinafter referred to as the principal Act), the following sections shall be substituted, namely:— Substitution of new sections for section 2.

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

(*a*) "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

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

(*c*) "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

45 of 1860. 1 of 1872. 2 of 1974.

2A. Any reference in this Act to the Indian Penal Code, the Indian Evidence Act, 1872 or the Code of Criminal Procedure, 1973, shall, in relation to the State of Jammu and Kashmir, be construed Rule of construction respecting enactments

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not extending to Jammu and Kashmir.

as a reference to the corresponding enactment in force in that State.'.

Amendment of section 4.

3. In section 4 of the principal Act, in sub-section (2), after the word "census-officers", the words "with such designations as that Government may deem necessary" shall be inserted.

Insertion of new section 4A.

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

Staff of every local authority to be made available for taking census.

"4A. Every local authority in a State shall, when so directed by a written order by the Central Government or by an authority appointed by that Government in this behalf, make available to any Director of Census Operations such staff as may be necessary for the performance of any duties in connection with the taking of census.".

Insertion of new sections 7A to 7H.

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

Requisitioning premises, vehicles, etc., for taking of a census.

"7A. (1) If it appears to the Central Government that, in connection with taking of a census,—

(a) any premises are needed or are likely to be needed, or

(b) any vehicle, vessel or animal is needed or is likely to be needed,

that Government may by order in writing requisition such premises, or vehicle, vessel or animal, as the case may be, and make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the Central Government to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.

(3) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

Payment of compensation.

7B. (1) Whenever in pursuance of section 7A the Central Government requisitions any premises, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:—

(i) the rent payable in respect of the premises or if no rent is so payable, the rent payable for similar premises in the locality;

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(*ii*) if in consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the Central Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the Central Government to an arbitrator appointed in this behalf by that Government for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—In this sub-section the expression "person interested" means the person who was in actual possession of the premises requisitioned under section 7A immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of section 7A the Central Government requisitions any vehicle, vessel, or animal, there shall be paid to the owner thereof compensation the amount of which shall be determined by the Central Government on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal:

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the Central Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government may determine:

Provided further that where immediately before the requisitioning the vehicle or vessel was by virtue of a hire-purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the Central Government in this behalf may decide.

Power to obtain information.

7C. The Central Government may, with a view to requisitioning any property under section 7A or determining the compensation payable under section 7B, by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

Powers of entry into and inspection of premises, etc.

7D. Any person authorised in this behalf by the Central Government may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of determining whether, and if so in what manner, an order under section 7A should be made in relation to such premises, vehicle, vessel or animal, or with a view to securing compliance with any order made under that section.

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Eviction from requisitioned premises.

7E. (1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 7A may be summarily evicted from the premises by any officer empowered by the Central Government in this behalf.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

Release of premises from requisition.

7F. (1) When any premises requisitioned under section 7A are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned, or if there were no such person, to the person deemed by the Central Government to be the owner of such premises, and such delivery of possession shall be a full discharge of the Central Government from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(2) Where the person to whom possession of any premises requisitioned under section 7A is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the Central Government shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the Official Gazette.

(3) When a notice referred to in sub-section (2) is published in the Official Gazette, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the Central Government shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

Delegation of functions of the Central Government with regard to requisitioning.

7G. The Central Government may, by notification in the Official Gazette, direct that any powers conferred or any duty imposed on that Government by any of the provisions of sections 7A to 7F shall, under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer as may be specified.

Penalty for contravention of any order regarding requisitioning.

7H. If any person contravenes any order made under section 7A or section 7C, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.'.

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6. In section 8 of the principal Act, in sub-section (*1*), for the words "State Government", the words "Central Government" shall be substituted. Amendment of section 8.

7. In section 10 of the principal Act, in sub-section (*1*), for the words "State Government" at both the places where they occur, the words "Census Commissioner" shall be substituted. Amendment of section 10.

8. In section 11 of the principal Act, in sub-section (*1*),— Amendment of section 11.

(*i*) for part (*a*), the following parts shall be substituted, namely:—

"(*a*) any census-officer or any person lawfully required to give assistance towards the taking of census who refuses to perform any duty imposed upon him by this Act or any rule made thereunder, or any person who hinders or obstructs another person in performing any such duty, or

(*aa*) any census-officer or any person lawfully required to give assistance towards the taking of a census who neglects to use reasonable diligence in performing any duty imposed upon him or in obeying any order issued to him in accordance with this Act or any rule made thereunder, or any person who hinders or obstructs another person in performing any such duty or obeying any such order, or";

(*ii*) after part (*c*), the following part shall be inserted, namely:—

"(*ca*) any local authority which fails to comply with an order made under section 4A, or";

(*iii*) for the brackets, letters and words "(*b*) or (*c*) shall also be punishable with imprisonment which may extend to six months", the brackets, letters and words "(*a*), (*b*) or (*c*) shall also be punishable with imprisonment which may extend to three years" shall be substituted.

9. For section 12 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 12.

"12. Without prejudice to the provisions of section 197 of the Code of Criminal Procedure, 1973, no prosecution under this Act shall be instituted except with the previous sanction,— Sanction required for prosecutions.

2 of 1974.

(*a*) in the case of a person who is employed or was at the time of commission of the alleged offence employed—

(*i*) in a company, as defined in section 3 of the Companies Act, 1956, in which not less than fifty-one per cent. of the paid-up capital is held by the Central Government or any company which is a subsidiary thereof within the meaning of that Act, or

1 of 1956.

(*ii*) by a corporation or a local authority established by or under a Central Act which is owned or controlled by the Central Government,

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of the Central Government or of an authority authorised in this behalf by that Government; and

(*b*) in the case of a person other than referred to in clause (*a*) of the State Government.".

Insertion of new section 13A.

10. After section 13 of the principal Act, the following section shall be inserted, namely:—

Certain offences to be cognizable and triable summarily.

"13A. (*1*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no police officer or court shall take cognizance of any offence under part (*a*), (*b*) or (*c*) of sub-section (*1*) of section 11, except upon information received from or on a complaint made by, as the case may be, the Director of Census Operations or any officer authorised by him in this behalf. 2 of 1974.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under part (*a*), (*b*) or (*c*) of sub-section (*1*) of section 11 may be tried summarily.". 2 of 1974.

Amendment of section 14.

11. In section 14 of the principal Act, for the words "Presidency Magistrate or a Magistrate of the second class", the words "Metropolitan Magistrate or a Judicial Magistrate of the first class" shall be substituted.

Insertion of new sections 15A and 15B.

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

Protection of service interests of members of census staff.

"15A. No member of the census staff shall suffer any disability in service by reason of his being on census duty and the period spent by him on such census duty shall be deemed to be the duty under his lending employer and any duty performed under this Act shall not in any manner affect the right of promotion or other advancement in his original service.

Protection of action taken in good faith.

15B. No suit, prosecution or other legal proceeding shall lie against the Census Commissioner or any Director of Census Operations or any census-officeror any member of the census staff for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.".

Amendment of section 17.

13. In section 17 of the principal Act, for the opening portion beginning with the words "The Census Commissioner" and ending with the words "authorise in this behalf", the words "Subject to the provisions of section 15, the Census Commissioner or any Director of Census Operations" shall be substituted.

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14. After section 17 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 17A.

"17A. The Central Government may, by notification in the Official Gazette, extend the provisions of this Act, with such restrictions and modifications as it thinks fit, to pre-tests, pilot studies, census of houses which precede the population count and post enumeration check and evaluation studies or statistical surveys or any other operation as may be deemed necessary for the purpose of census.". Power to extend the provisions of Act to other operations.

15. In section 18 of the principal Act, in sub-section (2), the words "and providing for the manner of service of orders regarding requisitioning of premises, or vehicle; vessel or animal and the time within which the application may be made to it by any interested person aggrieved by the amount of compensation determined under section 7B for referring the matter to an arbitrator" shall be added at the end. Amendment of section 18.

Sd/–
K. L. MOHANPURIA,
Secretary to the Government of India.

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

Sd/–
Kum. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,

Sachivalaya, Gandhinagar, 1st September, 1994.

No. RP/50/94/Const-75/56/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

[LEGISLATIVE DEPARTMENT]

New Delhi, the 8th February, 1994.

The following Act of Parliament received the assent of the President on the 5th February, 1994/Magh 16, 1915 (Saka) and is hereby published for general information :

THE CONSTITUTION (SEVENTY-FIFTH AMENDMENT) ACT, 1993

[5th February, 1994]

An Act

further to amend the Constitution of India

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

Short title and Commencement.

1. (1) This Act may be called the Constitution (Seventy-fifth Amendment) Act, 1993.

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

Amendment of Article 323 B.

2. In article 323B of the Constitution, in clause (2),—

(a) sub-clauses (*h*) and (*i*) shall be re-lettered as sub-clauses (*i*) and (*j*), and before sub-clause (*i*), as so re-lettered, the following sub-clause shall be inserted, namely:—

"(*h*) rent, its regulation and control and tenancy issues including the right, title and interest of landlords and tenants;";

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(b) in sub-clause (i), as so re-lettered, for the brackets and letter "(g)", brackets and letter "(h)" shall be substituted.

(c) in sub-clause (j), as so re-lettered, for the brackets and letter "(h)", the brackets and letter "(i)" shall be substituted.

Sd/-
K. L. MOHANPURIA,
Secretary to the Government of India.

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

Sd/-
Kum. H. K. JHAVERI,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,

Sachivalaya, Gandhinagar, 1st September, 1994.

No. RP/53/94/Act.4 /94/57/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

[LEGISLATIVE DEPARTMENT]

New Delhi, the 4th January, 1994.

The following Act of Parliament received the assent of the President on the 4th January, 1994. /Paush 14, 1915 (Saka) and is hereby published for general information :

THE CHIEF ELECTION COMMISSIONER AND OTHER ELECTION COMMISSIONERS (CONDITIONS OF SERVICE) AMENDMENT ACT,1993.

[Act 4 of. 1994] *[4th January, 1994]*

An Act

to amend the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Act, 1991.

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

Short title and commencement.

1. (*1*) This Act may be called the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Amendment Act, 1993.

(2) It shall be deemed to have come into force on the 1st day of October, 1993.

Amendment of long title.

11 of 1991.

2. In the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Act, 1991 (hereinafter referred to as the principal Act), in the long title, for the words "and for matters", the words "and to provide for the procedure for transaction of business by the Election Commission and for matters" shall be substituted.

Amendment of section 1.

3. In section 1 of the principal Act, for the words and brackets "the Chief Election Commissioner and other Election Commissioners (Conditions of Service)", the words and brackets "the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business)" shall be substituted.

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Amendment of section 2.

4. In section 2 of the principal Act, clause (*b*) shall be re-lettered as clause (*c*) and before clause (*c*) as so re-lettered, the following clause shall be inserted, namely:—

'(*b*) "Election Commission" means the Election Commission referred to in article 324 of the Constitution;'.

Amendment of section 3.

5. In section 3 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) the brackets and figure "(*1*)" shall be omitted;

(*ii*) after the words "Chief Election Commissioner", the words "and other Election Commissioners" shall be inserted;

(*b*) in sub-section (*2*), the brackets, figure and words "(2) There shall be paid to an Election Commissioner a salary which is equal to the salary of a Judge of a High Court:" shall be omitted.

Amendment of section 4.

6. In section 4 of the principal Act, for the first proviso, the following proviso shall be substituted, namely:—

"Provided that where the Chief Election Commissioner or an Election Commissioner attains the age of sixty-five 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:".

Amendment of section 6.

7. In section 6 of the principal Act,—

(*a*) in sub-section (*2*),—

(*i*) after the words "Chief Election Commissioner", the words "or an Election Commissioner" shall be inserted;

(*ii*) for the word, brackets and figure "sub-section (*4*)", the word, brackets and figure "sub-section (*3*)" shall be substituted;

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

(*c*) sub-section (*4*) shall be re-numbered as sub-section (*3*) and in sub-section (*3*) as so re-numbered, in clause (*b*), the words "or as the case may be, sixty-two years," shall be omitted.

Amendment of section 8.

8. In section 8 of the principal Act, for the portion beginning with the words "for the time being, applicable to", and ending with the words "apply to an Election Commissioner", the following shall be substituted, namely :—

"for the time being, applicable to 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 and other Election Commissioners". 41 of 1958.

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Insertion of new Chapter III.

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

"CHAPTER III

TRANSACTION OF BUSINESS OF ELECTION COMMISSION

Transaction of business of Election Commission.

9. The business of the Election Commission shall be transacted in accordance with the provisions of this Act.

Disposal of business by Election Commission.

10. (*1*) The Election Commission may, by unanimous decision, regulate the procedure for transaction of its business as also allocation of its business amongst the Chief Election Commissioner and other Election Commissioners.

(*2*) Save as provided in sub-section (*1*), all business of the Election Commission shall, as far as possible, be transacted unanimously.

(*3*) Subject to the provisions of sub-section (*2*), if the Chief Election Commissioner and other Election Commissioners differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.".

Repeal and saving.

10. (*1*) The Chief Election Commissioner and other Election Commissioners (Conditions of Service) Amendment Ordinance, 1993 is hereby repealed. Ord. 32 of 1993.

(*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,
Secretary to the Government of India.

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

Sd/-
Kum. H. K. JHAVERI,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,

Sachivalaya, Gandhinagar, 1st September, 1994.

No. RP/46/94/Act-68/93/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

[LEGISLATIVE DEPARTMENT]

New Delhi, the 20th December,1993.

The following Act of Parliament received the assent of the President on the 17th December, 1993/Paush 26, 1915 (Saka) and is hearby published for general information :

THE MERCHANT SHIPPING (AMENDMENT) ACT, 1993

[20th December, 1993]

[Act No. 68 of 1993]

An Act

further to amend the Merchant Shipping Act, 1958.

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

Short title and commencement.

1. (*1*) This Act may be called the Merchant Shipping (Amendment) Act, 1993.

(*2*) It shall be deemed to have come into force on the 27th day of October, 1993.

Amendment of section 21.

44 of 1958.

2. In section 21 of the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), for clauses (*b*) and (*c*), the following clauses shall be substituted, namely:—

"(*b*) a company or a body established by or under any Central or State Act which has its principal place of business in India; or

2 of 1912.

(*c*) a co-operative society which is registered or deemed to be registered under the Co-operative Societies Act, 1912, or any other law relating to co-operative societies for the time being in force in any State.".

Amendment of section 42.

3. In section 42 of the principal Act,—

(*i*) in sub-section (*1*), after the words "interest therein", the words, brackets and figures "at any time during which the security of India or of any part of the territory thereof is threatened by war or external aggression and during which a Proclamation of Emergency issued under clause (1) of article 352 of the Constitution is in operation" shall be inserted;

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

"(*2A*) No transfer or acquisition of any Indian ship shall be valid unless—

(*a*) all wages and other amounts due to seamen in connection with their employment on that ship have been paid in accordance with the provisions of this Act;

(*b*) the owner of the ship has given notice of such transfer or acquisition of the ship to the Director General.".

Amendment of section 45.

4. In section 45 of the principal Act, in sub-section (*2*), for the words "company or any co-operative society", the words "company or body or co-operative society" shall be substituted.

Substitution of new section for section 51.

5. For section 51 of the principal Act, the following section shall be substituted, namely:—

Rights of mortgagee.

"51. (*1*) Where there is only one registered mortgagee of a ship or share, he shall be entitled to recover the amount due under the mortgage by selling the mortgaged ship or share without approaching the High Court:

Provided that nothing contained in this sub-section shall prevent the mortgagee from recovering the amount so due in the High Court as provided in sub-section (*2*).

(*2*) Where there are two or more registered mortgagees of a ship or share they shall be entitled to recover the amount due under the mortgage in the High Court, and when passing a decree or thereafter the High Court may direct that the mortgaged ship or share be sold in execution of the decree.

(*3*) Every registered mortgagee of a ship or share who intends to recover the amount due under the mortgage by selling the mortgaged ship or share under sub-section (*1*) shall give an advance notice of fifteen days relating to such sale to the registrar of the ship's port of registry.

(*4*) The notice under sub-section (*3*) shall be accompanied with the proof of payment of the wages and other amounts referred to in clause (*a*) of sub-section (*2A*) of section 42.".

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Omission of section 412.

6. Section 412 of the principal Act shall be omitted.

Amendment of section 414.

7. In section 414 of the principal Act, in sub-section (2), clauses (b) and (c) shall be omitted.

Ord. 34 of 1993.

Repeal and saving.

8. (1) The Merchant Shipping (Amendment) Ordinance, 1993 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.

Sd/-
K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,
Sd/-
Kum. H. K. JHAVERI,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,

No. RP/58/94/Act.7 /94/ / Sachivalaya, Gandhinagar,6th September, 1994.

/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

[LEGISLATIVE DEPARTMENT]

New Delhi, the 7th January, 1994.

The following Act of Parliament received the assent of the President on the 7th January, 1994. /Paush 17, 1915 (Saka) and is hearby published for general information :

THE PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) AMENDMENT ACT, 1993

[Act No. 7 of 1994]

[7th January, 1994]

An Act

further to amend the Public Premises (Eviction of Unauthorised Occupants) Act, 1971

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

Short title and commencement.

1. (*1*) This Act may be called the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1993.

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

Amendment of section 2.

40 of 1971.

2. In section 2 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as the principal Act),—

(*1*) in clause (*e*),—

(*A*) in sub-clause (*2*),—

(*a*) in item (*vi*), the word "and", occurring at the end, shall be omitted;

(*b*) after item (*vi*), the following items shall be inserted, namely:—

"(*vii*) any State Government or the Government of any Union territory situated in the National Capital Territory of Delhi or in any other Union territory,

(*viii*) any Cantonment Board constituted under the Cantonments Act, 1924; and"; 2 of 1924.

(*B*) in sub-clause (*3*),—

(*a*) in the opening portion, for the words "Union territory of Delhi", the words "National Capital Territory of Delhi" shall be substituted;

(*b*) in item (*i*), the word "and", occurring at the end, shall be omitted;

(*c*) in item (*ii*), the word "and" shall be added at the end;

(*d*) after item (*ii*), the following item shall be inserted, namely:—

"(*iii*) any premises belonging to or taken on lease or requisitioned by, or on behalf of any State Government or the Government of any Union territory.";

(2) in clause (*fa*), in item (*iv*), for the word, brackets and figures "and (vi)", the brackets, figures and word "(vi) and (viii)" shall be substituted;

(*3*) after clause (*fa*), the following clause shall be inserted, namely:—

'(*fb*) "temporary occupation", in relation to any public premises, means occupation by any person on the basis of an order of allotment made under the authority of the Central Government, a State Government, the Government of a Union territory or a statutory authority for a total period (including the extended period, if any) which is less than thirty days;'.

Amendment of section 3.

3. In section 3 of the principal Act, in clause (*a*), after the words "officers of Government", the words "or of the Government of any Union territory" shall be inserted.

Insertion of new section 3A.

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

Eviction from temporary occupation.

"3A. Notwithstanding anything contained in section 4 or section 5, if the estate officer, after making such inquiry as he deems expedient in the circumstances of the case, is satisfied that any persons who were allowed temporary occupation of any public premises are in unauthorised occupation of the said premises, he may, for reasons to be recorded in writing, make an order for the eviction of such persons forthwith and, thereupon, if such

persons refuse or fail to comply with the said order of eviction, he may evict them from the premises and take possession thereof and may, for that purpose, use such force as may be necessary.".

5. In section 4 of the principal Act, sub-section (4) shall be omitted. Amendment of section 4.

Sd/-
K. L. MOHANPURIA,
Secretary to the Government of India.
By order and in the name of the Governor of Gujarat,

Sd/-
Kum. H. K. JHAVERI,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar.

Dated the 20-10-1994

No. RP/88/94/32/94/ /E.-The following Act of Parliament is re- published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 13th May, 1994.

The following Act of Parliament received the assent of the President on the 13th May, 1994/Vaishakh, 23, 1915 (Saka) and is hereby published for general information :

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THE FINANCE ACT, 1994

AN ACT

(Act 32 of 1994) (13th May, 1994)

to give effect to the financial proposals of the Central Government for the financial year 1994-95.

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

CHAPTER I
PRELIMINARY

Short title and commencement

1. (1) This Act may be called the Finance Act, 1994.

(2) Save as otherwise provided in this Act, sections 2 to 59 (except section 26) shall be deemed to have come into force on the 1st day of April, 1994.

CHAPTER II
RATES OF INCOME-TAX

Income-tax

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 1994, income-tax shall be charged at the rates specified in Part I of the First Schedule and 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 increased,- 43 of 1961

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

(b) in the cases to which Paragraph E of that part applies, by a surcharge,calculated in each case in the manner provided therein.

(2) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding six hundred rupees, in addition to total income, and the total income exceeds,-

(i) in a case to which the said Sub-Paragraph I applies, thirty thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, eighteen thousand rupees, then,-

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after,-

(i) in a case to which the said Sub-Paragraph I applies, the first thirty thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, the first eighteen thousand rupees, of the total incoome but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:-

(i) the total income and the net agricultural income shall be aggregated and the amount of incomme-tax shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased,-

(A) in a cae to which the said Sub-Paragraph I applies, by a sum of thirty thousand rupees; and

(B) in a case to which the said Sub-Paragraph II applies, by a sum of eighteen thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be Sub-Paragraph Ii of the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub- clause(i) shall be reduced by the amount of incoome-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that the amount of income-tax so arrived at, 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 one hundred 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 arrivved at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, the tax chargeable shall be determined as provided in the Chapter or that section, and with reference to the rates imposed by sub- section (1) or the rates as specified in that Chapter or section, as the case may be:

Provided that the amount of income-tax computed in accordance with the provisions of section 112 shall be increased by a surcharge for purposes of the Union or surcharge as provided in Paragraph A,B,C,D or E, as the case may be, of Part I of the First Schedule:

Provided futher that in respect of any income chargeable to tax under section 115B or section 115BB of the income-tax Act.-

(a) the income-tax computed under section 115B 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 115BB 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 catculated 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.

(4) In cases in which tax has to be deducted under sections 193, 194, 194A,194B, 194BB,194D and 195 of the Imcome-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule and shall be increased in the cases to which the provisions of sub-item (a) of item 2 of that Part apply, by a surcharge, calculated in the manner provided therein.

(5) In cases in which tax has to be deducted under sections 194C, 194EE, 194F, 194G and 194-1 of the Income-tax Act, the deduction shall be made at the rates specified in those sections and shall be increased in the case of an assessee being a domestic company, by a surcharge calculated at the rate of fifteen per cent. of such deduction.

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(6) In cases in which tak has to be collected under section 206c of the Income-tax Act, the collection shall be made at the rate specified in that section and shall be increased in the case of a buyer,being a domestic company, by a surchage calculated at the rate of fifteen per cent. of such collection.

(7) Subject to the provision of sub-section (8) in cases in which income-tax has to be calculated under the first proviso to sub- section (5) of section 132 of the income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payble under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax shall be increased in the cases to which Paragraph E of that Part applies, by asurcharge, calculated in the manner provided therein;

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of income-tax computed in accordance with the provisions of section 112 shall be increased by a surcharge as provided in paragraph E of Part III of the First Schedule:

Provided also that in respect of any income chargeable to tax under section 115B, or in the case of a domestic company, under section 155BB, of the income-tax Act, the "advance tax" computed under the first proviso shall be increased by a surcharge calculated at the rate of fifteen per cent. of such "advance tax".

(8) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding six hundred rupees, in addition to total income and the total income exceeds,-

(i) in acase to which the said Sub-Paragraph I applies, thirty- five thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, eighteen thousand rupees.,

then, in calculating income-tax under the first proviso to sub- section (5) of section 132 of the income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under chapter XVII-C of the said Act, at the rate or rates in force,-

(a) the net agricultural income shall be taken into account. in the manner provided in clause

(b) [that is to say, as if the net agricultural income were comprised in the total income after,-

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(i) in a case to which the said Sub-Paragrph I applies, the first thirty-five thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, the first eighteen thousand rupees of the total income but without being liable to tax.]. only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows:-

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said paragraph A. as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased,-

(A) in a case to which the said Sub-Paragraph I applies, by asum of thirty-five thousand rupees; and

(B) in a case to which the said Sub-Paragraph II applies, by a sum of eighteen thousand rupees.

and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Sub-Paragraph I or, as the case maybe, the said Sub-Paragraph II as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case be, "advance tax" determined in accordance withsub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be,"advance tax" in respect of the total income.

(9) For the purposes of this section and First Schedule.-

(a) "company in which the public are substantially interested" means a company within the meaning of clause (18) of section 2 of the income-tax Act, and includes a subsidiary of such company if the whole of the share capital of such subsidiary company has been heldby the parent company or by its nominees throughout the previous year;

(b) "domestic company" means an Indin company, or any other company, which, in respect of its income liable to income-tax under the income-tax Act for the assessment year commencing on the 1st day of April, 1994, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of the Act;

(c) "insurance commission" means any remuneration or reward, whether by way of commission or otherwiser, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(d) "net agricultural income" in relation to a person, means the total amount of agricultural income, from whatever source derived of that person computed in accordance with the rules contained in Part IV of the First Schedule;

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

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CHAPTER III

DIRECT TAXES

Income-tax

Amendment of section 2.

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

(a) in clause *(19A)*, after the words "Deputy Commissioner of Income-tax", the words "or an Additional Commissioner of Income-tax" shall be inserted with effect from the 1st day of June, 1994;

(b) in clause *(19B)*, after the words and brackets "Deputy Commissioner of Income-tax (Appeals)", the words and brackets "or an Additional Commissioner of Income-tax (Appeals)" shall be inserted with effect from the 1st day of June, 1994;

(c) after clause *(19B)*, the following clause shall be inserted with effect from the 1st day of June, 1994, namely:—

'*(19C)* "Deputy Director" means a person appointed to be a Deputy Director of Income-tax or an Additional Director of Income-tax under sub-section *(1)* of section 117;';

(d) in clause *(21)*, after the words "that sub-section to be", the words "an Additional Director of Income-tax or" shall be inserted with effect from the 1st day of June, 1994;

(e) in clause *(42A)*, with effect from the 1st day of April, 1995,—

(i) in the proviso, after the words "share held in a company", the words, figures, brackets and letter "or any other security listed in a recognised stock exchange in India or a unit of the Unit Trust of India established under the Unit Trust of India Act, 1963 or a unit of a Mutual Fund specified under clause *(23D)* of section 10" shall be inserted; 52 of 1963.

(ii) the existing *Explanation* shall be renumbered as *Explanation 1* and in *Explanation 1* as so renumbered, in clause *(i)*, after sub-clause *(c)*, the following sub-clauses shall be inserted, namely:—

"*(d)* in the case of a capital asset, being a share or any other security (hereafter in this clause referred to as the financial asset) subscribed to by the assessee on the basis of his right to subscribe to such financial asset or subscribed to by the person in whose favour the assessee has renounced his right to subscribe to such financial asset, the period shall be reckoned from the date of allotment of such financial asset;

(e) in the case of a capital asset, being the right to subscribe to any financial asset, which is renounced in favour of any other person, the period shall be reckoned from the date of the offer of such right by the company or institution, as the case may be, making such offer;";

(iii) after *Explanation 1* as so renumbered, the following *Explanation* shall be inserted, namely:—

'*Explanation 2.*—For the purposes of this clause, the expression "security" shall have the meaning assigned to it in clause *(h)* of section 2 of the Securities Contracts (Regulation) Act, 1956;'. 42 of 1956.

Insertion of new section 5A.

4. After section 5 of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1963, namely:—

Apportionment of income between spouses governed by Portuguese Civil Code.

'5A. *(1)* Where the husband and wife are governed by the system of community of property (known under the Portuguese Civil Code of 1860 as "COMMUNIAO DOS BENS") in force in the State of Goa and in the Union territories of Dadra and Nagar Haveli and Daman and Diu, the income of the husband and of the wife under any head of income shall not be assessed as that of such community of property (whether treated as an association of persons or a body of individuals), but such income of the husband and of the wife under each head of income (other than under the head "Salaries") shall be apportioned equally between the husband and the wife and the income so apportioned shall be included separately in the total income of the husband and of the wife respectively, and the remaining provisions of this Act shall apply accordingly.

(2) Where the husband or, as the case may be, the wife governed by the aforesaid system of community of property has any income under the head "Salaries", such income shall be included in the total income of the spouse who has actually earned it.'.

Amendment of section 6.

5. In section 6 of the Income-tax Act, in clause *(1)*, in sub-clause *(c)*, in the *Explanation*, in clause *(b)*, for the words "one hundred and fifty days", the words "one hundred and eighty-two days" shall be substituted with effect from the 1st day of April, 1995.

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

(1) in clause *(10C)*, with effect from the 1st day of April, 1995,—

(a) in sub-clause *(iv)*, for the word "authority", the words "authority; or" shall be substituted;

(b) after sub-clause *(iv)*, the following sub-clauses shall be inserted, namely:—

"*(v)* a co-operative society; or

(vi) a University established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a University under section 3 of the University Grants Commission Act, 1956; or

3 of 1956.

(vii) an Indian Institute of Technology within the meaning of clause *(g)* of section 3 of the Institutes of Technology Act, 1961; or

59 of 1961.

(viii) such institute of management as the Central Government may, by notification in the Official Gazette, specify in this behalf.";

(c) in the first proviso,—

(i) after the word "authorities", the words, brackets and figures "or societies or Universities or the institutes referred to in sub-clauses *(vii)* and *(viii)*" shall be inserted;

(ii) after the word, brackets and figures "sub-clause *(ii)*", the words, brackets and figure "or co-opeative societies referred to in sub-clause *(v)*" shall be inserted;

(2) after clause *(22A)*, the following clause shall be inserted, namely:—

"*(22B)* any income of such news agency set up in India solely for collection and distribution of news as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the news agency applies its income or accumulates it for application solely for collection and distribution of news and does not distribute its income in any manner to its members:

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

(3) in clause *(26)*, with effect from the 1st day of April, 1995,—

(i) in the opening portion, for the words "States of Nagaland, Manipur and Tripura or in the Union territories of Arunachal Pradesh and Mizoram", the words "States of Arunachal Pradesh, Manipur, Mizoram, Nagaland and Tripura" shall be substituted;

(ii) in sub-clause *(a)*, for the words ", States or Union territories aforesaid", the words "or States aforesaid" shall be substituted;

(4) in clause *(26B)*, the following amendments shall be made and shall be deemed to have been made with effect from the 1st day of April, 1993, namely:—

(a) for the words "members of either the Scheduled Castes or the Scheduled Tribes or of both", the words "members of the Scheduled Castes or the Scheduled Tribes or backward classes or of any two or all of them" shall be substituted;

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

'*Explanation.*—For the purposes of this clause,—

(a) "Scheduled Castes" and Scheduled Tribes" shall have the meanings respectively assigned to them in clauses (24) and (25) of article 366 of the Constitution;

(b) "backward classes" means such classes of citizens, other than the Scheduled Castes and the Scheduled Tribes, as may be notified—

(i) by the Central Government; or

(ii) by any State Government,

as the case may be, from time to time.'.

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

(a) in sub-section *(2)*, after clause *(i)*, the following clause shall be inserted, with effect from the 1st day of April, 1995, namely:—

"*(ia)* in relation to an undertaking which begins to manufacture or produce any article or thing on or after the 1st day of April, 1994, its exports of such articles and things are not less

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than seventy-five per cent. of the total sales thereof during the previous year;";

(*b*) in the *Explanation* occurring at the end, after clause (*iii*), the following clause shall be inserted, namely:—

'(*iv*) "produce", in relation to any article or thing referred to in clause (*i*) of sub-section (*2*) includes production of computer programmes.'.

Amendment of section 12A.

8. In section 12A of the Income-tax Act, in clause (*b*), for the words "twenty-five thousand", the words "fifty thousand" shall be substituted with effect from the 1st day of April, 1995.

Amendment of section 13.

9. In section 13 of the Income-tax Act, in sub-section (*3*), in clause (*b*), for the words "twenty-five thousand", the words "fifty thousand" shall be substituted with effect from the 1st day of April, 1995.

Amendment of section 17.

10. In section 17 of the Income-tax Act, in clause (*2*), in the proviso, for clause (*ii*), the following clause shall be substituted and shall be deemed to have been substituted, with effect from the 1st day of April, 1993, namely:—

"(*ii*) any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family—

(*a*) in any hospital maintained by the Government or any local authority or any other hospital approved by the Government for the purposes of medical treatment of its employees;

(*b*) in respect of the prescribed diseases or ailments, in any hospital approved by the Chief Commissioner having regard to the prescribed guidelines:

Provided that, in a case falling in sub-clause (*b*), the employee shall attach with his return of income a certificate from the hospital specifying the disease or ailment for which medical treatment was required and the receipt for the amount paid to the hospital.".

Amendment of section 24.

11. In section 24 of the Income-tax Act, in sub-section (2), in the proviso, for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted with effect from the 1st day of April, 1995.

Amendment of section 33AB.

12. In section 33AB of the Income-tax Act, with effect from the 1st day of April, 1995,—

(*1*) in sub-section (*1*),—

(*i*) for the portion beginning with the words "whichever is earlier, deposited with the National Bank" and ending with the words "the assessee shall, subject to the provisions of this section,", the following shall be substituted, namely:—

"whichever is earlier,—

(*a*) deposited with the National Bank any amount or amounts in an account (hereafter in this section referred to as the special account) maintained by the assessee with that Bank in accordance with, and for the purposes specified in, a scheme (hereafter in this section referred to as the scheme) approved in this behalf by the Tea Board; or

(*b*) deposited any amount in an account (hereafter in this section referred to as the Tea Deposit Account) opened by the assessee in accordance with, and for the purposes specified in, a scheme framed by the Tea Board (hereafter in this section referred to as the deposit scheme) with the previous approval of the Central Government,

the assessee shall, subject to the provisions of this section,";

(*ii*) in the second proviso, after the words "in the special account", the words "or in the Tea Deposit Account" shall be inserted;

(*2*) in sub-section (*3*), for the words "the special account shall not be allowed to be withdrawn except for the purposes specified in the scheme", the words "the special account or the Tea Deposit Account shall not be allowed to be withdrawn except for the purposes specified in the scheme or, as the case may be, in the deposit scheme" shall be substituted;

(*3*) in sub-section (*5*), after the words "the special account", the words "or in the Tea Deposit Account" shall be inserted;

(*4*) in sub-section (*6*),—

(*i*) after the words "the special account", the words "or in the Tea Deposit Account" shall be inserted;

(*ii*) after the words "the scheme", the words "or the deposit scheme" shall be inserted;

(*5*) in sub-section (*7*),—

(*i*) after the words "special account", the words "or in the Tea Deposit Account" shall be inserted;

(*ii*) after the words "National Bank", the words "or which is withdrawn by the assessee from the Tea Deposit Account" shall be inserted;

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(iii) after the words "the scheme", the words "or the deposit scheme" shall be inserted;

(6) in sub-section *(8)*, after the words "the scheme", at both the places where they occur, the words "or the deposit scheme" shall be inserted.

13. In section 35 of the Income-tax Act, in sub-section *(2AA)*, with effect from the 1st day of April, 1995,— Amendment of section 35.

(a) in the opening portion, after the words "a National Laboratory", the words "or a University or an Indian Institute of Technology" shall be inserted;

(b) in the first proviso, after the words "every National Laboratory", the words "or University or Indian Institute of Technology" shall be inserted;

(c) in the second proviso,—

(i) after the words "the National Laboratory", the words "or the University or the Indian Institute of Technology" shall be inserted;

(ii) after the words "such Laboratory", the words "or University or Institute, as the case may be" shall be inserted;

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

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

(a) "National Laboratory" means a scientific laboratory functioning at the national level under the aegis of the Indian Council of Agricultural Research, the Indian Council of Medical Research, the Council of Scientific and Industrial Research, the Defence Research and Development Organisation, the Department of Electronics, the Department of Bio-Technology or the Department of Atomic Energy and which is approved as a National Laboratory by the prescribed authority in such manner as may be prescribed;

(b) "University" shall have the same meaning as in *Explanation* to clause *(ix)* of section 47;

59 of 1961. *(c)* "Indian Institute of Technology" shall have the same meaning as that of "Institute" in clause *(g)* of section 3 of the Institutes of Technology Act, 1961.'.

14. In section 36 of the Income-tax Act, in sub-section *(1)*, with effect from the 1st day of April, 1995,— Amendment of section 36.

(a) in clause *(viia)*, in sub-clause *(a)*,—

(i) the words, brackets, figures and letter "a bank approved by the Central Government for the purposes of clause *(viiia)* or" shall be omitted;

(ii) for the words "four per cent.", the words "ten per cent." shall be substituted;

(b) clause *(viiia)* shall be omitted.

15. In section 37 of the Income-tax Act, in sub-section *(2)*, for the words, figures and letters "any previous year commencing on the 1st day of April, 1992", the words, figures and letters "any previous year commencing on or after the 1st day of April, 1992" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1993. Amendment of section 37.

16. In the Income-tax Act, before section 44B, the following sections shall be inserted, namely:— Insertion of new sections 44AD and 44AE.

'44AD. *(1)* Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee engaged in the business of civil construction or supply of labour for civil construction, a sum equal to eight per cent. of the gross receipts paid or payable to the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum as declared by the assessee in his return of income, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession": Special provision for computing profits and gains of business of civil construction, etc.

Provided that nothing contained in this sub-section shall apply in case the aforesaid gross receipts paid or payable exceed an amount of forty lakh rupees.

(2) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section *(1)*, be deemed to have been already given full effect to and no further deduction under those sections shall be allowed.

(3) The written down value of any asset used for the purpose of the business referred to in sub-section *(1)* shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(4) The provisions of sections 44AA and 44AB shall not apply in so far as they relate to the business referred to in sub-section *(1)* and in computing the monetary limits under those sections, the gross receipts or, as the case may be, the income from the said business shall be excluded.

(5) Nothing contained in the foregoing provisions of this section shall apply, where the assessee claims and produces evidence to prove that the profits and gains from the aforesaid business are lower than the profits and gains specified in sub-section (1), and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee and determine the sum payable by the assessee on the basis of assessment made under sub-section (3) of section 143.

Explanation.—For the purposes of this section, the expression "civil construction" includes—

(a) the construction or repair of any building, bridge, dam or other structure or of any canal or road;

(b) the execution of any works contract.

Special provision for computing profits and gains of business of plying, hiring or leasing goods carriages.

44AE. (1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee, who owns not more than ten goods carriages and who is engaged in the business of plying, hiring or leasing such goods carriages, the income of such business chargeable to tax under the head "Profits and gains of business or profession" shall be deemed to be the aggregate of the profits and gains, from all the goods carriages owned by him in the previous year, computed in accordance with the provisions of sub-section (2).

(2) For the purposes of sub-section (1), the profits and gains from each goods carriage,—

(i) being a heavy goods vehicle, shall be an amount equal to two thousand rupees for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year or, as the case may be, an amount higher than the aforesaid amount as declared by him in his return of income;

(ii) other than a heavy goods vehicle, shall be an amount equal to one thousand eight hundred rupees for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or, as the case may be, an amount higher than the aforesaid amount as declared by him in his return of income.

(3) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed.

(4) The written down value of any asset used for the purpose of the business referred to in sub-section (1) shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(5) The provisions of sections 44AA and 44AB shall not apply in so far as they relate to the business referred to in sub-section (1) and in computing the monetary limits under those sections, the gross receipts or, as the case may be, the income from the said business shall be excluded.

(6) Nothing contained in the foregoing provisions of this section shall apply, where the assessee claims and produces evidence to prove that the profits and gains from the aforesaid business are lower than the profits and gains specified in sub-sections (1) and (2), and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee and determine the sum payable by the assessee on the basis of assessment made under sub-section (3) of section 143.

Explanation.—For the purposes of this section,—

(a) the expressions "goods carriage" and "heavy goods vehicle" shall have the meanings respectively assigned to them in section 2 of the Motor Vehicles Act, 1988; 59 of 1988.

(b) an assessee, who is in possession of a goods carriage, whether taken on hire purchase or on instalments and for which the whole or part of the amount payable is still due, shall be deemed to be the owner of such goods carriage.'.

Amendment of section 44D.

17. In section 44D of the Income-tax Act, clauses (c) and (d) shall be omitted with effect from the Ist day of April, 1995.

Amendment of section 55.

18. In section 55 of the Income-tax Act, in sub-section (2), for clause (a), the following clauses shall be substituted, with effect from the Ist day of April, 1995, namely:—

"(a) in relation to a capital asset, being goodwill of a business, tenancy rights, stage carriage permits or loom hours,—

(i) in the case of acquisition of such asset by the assessee by purchase from a previous owner, means the amount of the purchase price; and

(ii) in any other case [not being a case falling under sub-clauses (i) to (iv) of sub-section (1) of section 49], shall be taken to be *nil*;

(aa) in a case where, by virtue of holding a capital asset, being a share or any other security within the meaning of clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (hereafter in this clause referred to as the financial asset), the assessee becomes entitled to subscribe to any additional financial asset, then, subject to the provisions of 42 of 1956.

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sub-clauses *(i)* and *(ii)* of clause *(b)*,—

(i) in relation to the original financial asset, on the basis of which the assessee becomes entitled to any additional financial asset, means the amount actually paid for acquiring the original financial asset;

(ii) in relation to any right to renounce the said entitlement to subscribe to the financial asset, when such right is renounced by the assessee in favour of any person, shall be taken to be *nil* in the case of such assessee;

(iii) in relation to the financial asset, to which the assessee has subscribed on the basis of the said entitlement, means the amount actually paid by him for acquiring such asset; and

(iv) in relation to any financial asset purchased by any person in whose favour the right to subscribe to such asset has been renounced, means the aggregate of the amount of the purchase price paid by him to the person renouncing such right and the amount paid by him to the company or institution, as the case may be, for acquiring such financial asset;".

19. In section 57 of the Income-tax Act, the proviso shall be omitted with effect from the 1st day of April, 1995. Amendment of section 57.

20. In section 64 of the Income-tax Act, in sub-section *(1A)*, in the opening portion, after the words "arises or accrues to his minor child", the words, figures and letter ",not being a minor child suffering from any disability of the nature specified in section 80U" shall be inserted with effect from the 1st day of April, 1995. Amendment of section 64.

21. In section 71 of the Income-tax Act, for sub-section *(4)*, the following sub-section shall be substituted with effect from the 1st day of April, 1995, namely:— Amendment of section 71.

'*(4)* Where the net result of the computation under the head "Income from house property" is a loss, in respect of the assessment years commencing on the 1st day of April, 1995 and the 1st day of April, 1996, such loss shall be first set off under sub-sections *(1)* and *(2)* and thereafter the loss referred to in section 71A shall be set off in the relevant assessment year in accordance with the provisions of that section.'.

22. For section 71A of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1995, namely:— Substitution of new section for section 71A.

'71A. Where in respect of the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994, the net result of the computation under the head "Income from house property" is a loss, such loss in so far as it relates to interest on borrowed capital referred to in clause *(vi)* of sub-section *(1)* of section 24 and to the extent it has not been set off shall be carried forward and set off in the assessment year commencing on the 1st day of April, 1995, and the balance, if any, in the assessment year commencing on the 1st day of April, 1996, against the income under any head.'. Transitional provisions for set off of loss under the head "Income from house property".

23. After section 80DD of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1995, namely:— Insertion of new section 80E.

'80E. *(1)* In computing the total income of an assessee, being an individual, there shall be deducted, in accordance with and subject to the provisions of this section, any amount paid by him in the previous year, out of his income chargeable to tax, by way of repayment of loan, taken by him from any financial institution or any approved charitable institution for the purpose of pursuing his higher education, or interest on such loan: Deduction in respect of repayment of loan taken for higher education.

Provided that the amount which may be so deducted shall not exceed twenty-five thousand rupees.

(2) The deduction specified in sub-section *(1)* shall be allowed in computing the total income in respect of the initial assessment year and seven assessment years immediately succeeding the initial assessment year or until the loan referred to in sub-section *(1)* together with interest thereon is paid by the assessee in full, whichever is earlier.

(3) For the purposes of this section,—

(a) "approved charitable institution" means an institution specified in, or, as the case may be, an institution established for charitable purposes and notified by the Central Government under clause *(23C)* of section 10 or an institution referred to in clause *(a)* of sub-section *(2)* of section 80G;

10 of 1949.

(b) "financial institution" means a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act); or any other financial institution which the Central Government may, by notification in the Official Gazette, specify in this behalf;

(c) "higher education" means full-time studies for any graduate or post-graduate course in engineering, medicine, management or for post-graduate course in applied sciences or pure sciences including mathematics and statistics;

(d) "initial assessment year" means the assessment year relevant to the previous year, in which the assessee starts repaying the loan or interest thereon.'.

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Amendment of section 80G.

24. In section 80G of the Income-tax Act,—

(a) in sub-section *(1)*, in clause *(i)*, after the words, brackets, figures and letter "or in sub-clause *(iiif)*", the words, brackets, figures and letter "or in sub-clause *(iiig)*" shall be inserted;

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

"*(iiig)* the Maharashtra Chief Minister's Relief Fund during the period beginning on the 1st day of October, 1993 and ending on the 6th day of October, 1993 or to the Chief Minister's Earthquake Relief Fund, Maharashtra; or";

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

(d) in sub-section (5),—

(i) the word "and", occurring at the end of clause *(iv)*, shall be omitted;

(ii) in clause *(v)*, the word "and" shall be inserted at the end.

Amendment of section 80HHD.

25. In section 80HHD of the Income-tax Act, with effect from the 1st day of April, 1995,—

(a) in sub-section *(2)*, in the *Explanation*, for the words "from a tour operator or, as the case may be, a travel agent", the words "from another hotelier, tour operator or travel agent, as the case may be," shall be substituted;

(b) in sub-section *(3)*, after the words, brackets and figure "sub-section *(2)*", the brackets, words, figure and letter "[as reduced by any payment, referred to in sub-section *(2A)*, made by the assessee]" shall be inserted;

(c) in sub-section *(6)*,—

(i) the words "aggregate of the" shall be omitted;

(ii) after the words "foreign tourists", the words, brackets, figure and letter, "payments made by him to any assessee referred to in sub-section *(2A)*" shall be inserted.

Amendment of section 80HHE.

26. In section 80HHE of the Income-tax Act, in sub-section *(1)*, in the proviso, for the figures "1995", the figures "1996" shall be substituted.

Amendment of section 80-IA.

27. In section 80-IA of the Income-tax Act,—

(a) in sub-section (2),—

(i) in clause *(iii)*, in the proviso, after the words "a small scale industrial undertaking", the words, brackets, letters and figures "or an industrial undertaking referred to in sub-clause *(b)* of clause *(iv)* which begins to manufacture or produce an article or thing during the period beginning on the 1st day of April, 1993 and ending on the 31st day of March, 1998" shall be inserted;

(ii) in clause *(iv)*, with effect from the 1st day of April, 1995,—

(1) in sub-clause *(a)*, after the word, brackets and letter "sub-clause *(b)*", the words, brackets and letter "or sub-clause *(c)*" shall be inserted;

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

"*(c)* in the case of an industrial undertaking located in such industrially backward district as the Central Government may, having regard to the prescribed guidelines, by notification in the Official Gazette, specify in this behalf, it begins to manufacture or produce articles or things or to operate its cold storage plant or plants at any time during the period beginning on the 1st day of October, 1994 and ending on the 31st day of March, 1999;";

(b) in sub-section *(5)*, in clause *(i)*, in sub-clause *(b)*, after the word, brackets and letter "sub-clause *(b)*", the words, brackets and letter "or sub-clause *(c)*" shall be inserted with effect from the 1st day of April, 1995.

Omission of section 80V.

28. Section 80V of the Income-tax Act shall be omitted with effect from the 1st day of April, 1995.

Amendment of section 88.

29. In section 88 of the Income-tax Act, the following amendments [except amendment by sub-clause *(iii)* of clause *(1)*] shall be made and shall be deemed to have been made with effect from the 1st day of April, 1991, namely:—

(1) in sub-section (2),—

(i) in clause *(xii)*, for the words "by any person", the words "in the name of any person" shall be substituted;

(ii) in clause (*xiii*), for the words "by any individual", the words, brackets and figure "in the name of any person specified in sub-section (*4*)" shall be substituted;

(iii) in clause *(xiiic)*, after the word and figures "section 10", the words and figures "or by the Unit Trust of India established under the Unit Trust of India Act, 1963" shall be inserted with effect from the 1st day of April, 1995; 52 of 1963.

(2) in sub-section *(4)*,—

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

"*(a)* for the purposes of clauses *(i)*, *(v)*, *(xii)* and *(xiii)* of that sub-section,—

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(i) in the case of an individual, the individual, the wife or husband and any child of such individual, and

(ii) in the case of a Hindu undivided family, any member thereof;";

(ii) in clause *(b)*, sub-clause *(ii)* shall be omitted;

(iii) in clause *(c)*,—

(a) for the words, brackets and figures "clauses *(v)* and *(viii)*", the word, brackets and figures "clause *(viii)*" shall be substituted;

(b) sub-clause *(iii)* shall be omitted;

(iv) clause *(d)* shall be omitted.

Amendment of section 88B.

30. In section 88B of the Income-tax Act, with effect from the 1st day of April, 1995,—

(a) for the words "seventy-five thousand rupees", the words "one hundred thousand rupees" shall be substituted;

(b) for the words "twenty per cent.", the words "forty per cent." shall be substituted.

Amendment of section 112.

31. In section 112 of the Income-tax Act, in sub-section *(1)*, with effect from the 1st day of April, 1995,—

(i) in clause *(a)*, after the words "Hindu undivided family,", the words "being a resident," shall be inserted;

(ii) in clause *(b)*,—

(a) for the word "company", the words "domestic company" shall be substituted;

(b) for the words "forty per cent.", wherever they occur, the words "thirty per cent." shall be substituted;

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

"*(c)* in the case of a non-resident (not being a company) or a foreign company,—

(i) the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been its total income; and

(ii) the amount of income-tax calculated on such long-term capital gains at the rate of twenty per cent.";

(iv) the existing clause *(c)* shall be relettered as clause *(d)*, and in clause *(d)* as so relettered, after the words "in any other case", the words "of a resident" shall be inserted.

Amendment of section 115A.

32. In section 115A of the Income-tax Act, with effect from the 1st day of April, 1995,—

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

(1) Where the total income of—

(a) a non-resident (not being a company) or of a foreign company, includes any income by way of—

(i) dividends; or

(ii) interest received from Government or an Indian concern on monies borrowed or debt incurred by Government or the Indian concern in foreign currency; or

(iii) income received in respect of units, purchased in foreign currency, of a Mutual Fund specified under clause *(23D)* of section 10 or of the Unit Trust of India,

the income-tax payable shall be aggregate of—

(A) the amount of income-tax calculated on the amount of income by way of dividends, if any, included in the total income, at the rate of twenty per cent.;

(B) the amount of income-tax calculated on the amount of income by way of interest referred to in sub-clause *(ii)*, if any, included in the total income, at the rate of twenty per cent.;

(C) the amount of income-tax calculated on the income in respect of units referred to in sub-clause *(iii)*, if any, included in the total income, at the rate of twenty per cent.; and

(D) the amount of income-tax with which he or it would have been chargeable had his or its total income been reduced by the amount of income referred to in sub-clause *(i)*, sub-clause *(ii)* and sub-clause *(iii)*;

(b) a foreign company, includes any income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement

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made by the foreign company with Government or the Indian concern after the 31st day of March, 1976, and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy, then, subject to the provisions of sub-sections *(1A)* and *(2)*, the income-tax payable shall be the aggregate of,—

(A) the amount of income-tax calculated on the income by way of royalty, if any, included in the total income, at the rate of thirty per cent.;

(B) the amount of income-tax calculated on the income by way of fees for technical services, if any, included in the total income, at the rate of thirty per cent.; and

(C) the amount of income-tax with which it would have been chargeable had its total income been reduced by the amount of income by way of royalty and fees for technical services.

Explanation.—For the purposes of this section,—

(a) "fees for technical services" shall have the same meaning as in *Explanation 2* to clause *(vii)* of sub-section *(1)* of section 9;

(b) "foreign currency" shall have the same meaning as in the *Explanation* below item *(g)* of sub-clause *(iv)* of clause *(15)* of section 10;

(c) "royalty" shall have the same meaning as in *Explanation 2* to clause *(vi)* of sub-section *(1)* of section 9;

(d) "Unit Trust of India" means the Unit Trust of India established under the Unit Trust of India Act, 1963.'; 52 of 1963.

(ii) in sub-section *(1A)*, for the words "approved by the Central Government or where the agreement relates to a matter", the words "the agreement is approved by the Central Government or where it relates to a matter" shall be substituted;

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

"*(3)* No deduction in respect of any expenditure or allowance shall be allowed to the assessee under sections 28 to 44C and section 57 in computing his or its income referred to in sub-section *(1)*.

(4) Where in the case of an assessee referred to in sub-section *(1)*,—

(a) the gross total income consists only of the income referred to in clause *(a)* of that sub-section, no deduction shall be allowed to him or it under Chapter VI-A;

(b) the gross total income includes any income referred to in clause *(a)* of that sub-section, the gross total income shall be reduced by the amount of such income and the deduction under Chapter VI-A shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

(5) It shall not be necessary for an assessee referred to in sub-section *(1)* to furnish under sub-section *(1)* of section 139 a return of his or its income if—

(a) his or its total income in respect of which he or it is assessable under this Act during the previous year consisted only of income referred to in clause *(a)* of sub-section *(1)*; and

(b) the tax deductible at source under the provisions of Chapter XVII-B has been deducted from such income.".

Amendment of section 115K.

33. In section 115K of the Income-tax Act, with effect from the 1st day of April, 1995,—

(i) in sub-section *(1)*, for the portion beginning with the words "to whom this section applies, carrying on—", and ending with the words "from such business or vocation", the following shall be substituted, namely:—

"to whom this section applies and who is—

(a) carrying on the business of retail trade in any goods or merchandise; or

(b) carrying on the business of running an eating place or of operating, hiring or leasing a motor cab, a maxicab or a three-wheeled motor vehicle or any other business as may be prescribed; or

(c) engaged in any vocation,

and submits a statement in accordance with the provisions of sub-section *(4)*, a sum of forty-two thousand rupees shall be deemed to be the profits and gains of such person from such business or vocation";

(ii) in sub-section *(2)*,—

(a) in clause *(b)*,—

(1) in sub-clause *(i)*, for the words "thirty-seven thousand rupees", the words "forty-two thousand rupees" shall be substituted;

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

"(ii) clause (b) or clause (c) of sub-section (1), his income from the said business or vocation, during the relevant previous year does not exceed forty-two thousand rupees; and";

(b) in clause (c), for the words "of retail trade or from the business of running the eating place or from the business of operating, hiring or leasing a goods carriage, a motor cab, a maxicab or a three-wheeled motor vehicle or from the vocation", the words, brackets, letters and figure "or vocation referred to in clause (a), clause (b) or, as the case may be, clause (c) of sub-section (1)" shall be substituted.

(iii) in sub-section (4),—

(a) in clause (a),—

(1) in sub-clause (i), for the words "thirty-seven thousand", the words "forty-two thousand" shall be substituted;

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

"(ii) where he is carrying on the business or vocation referred to in clause (b) or, as the case may be, clause (c) of that sub-section, his income during the relevant previous year from such business or vocation does not exceed forty-two thousand rupees,";

(b) in clause (b), the proviso shall be omitted;

(iv) sub-section (6) shall be omitted;

(v) in the *Explanation*, in clause (a), the words ' "goods carriage" ', shall be omitted.

Amendment of section 115N

34. In section 115N of the Income-tax Act, the words "in respect of his income from the business of retail trade or from the business of running an eating place or from the business of operating, hiring or leasing a goods carriage, a motor cab, a maxicab or a three-wheeled motor vehicle or from any vocation" shall be omitted with effect from the 1st day of April, 1995.

Amendment of section 116

35. In section 116 of the Income-tax Act, after clause (c), the following clause shall be inserted with effect from the 1st day of June, 1994, namely:—

"(cc) Additional Directors of Income-tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax (Appeals),".

Amendment of section 139.

36. In section 139 of the Income-tax Act, in sub-section (1), in the *Explanation*, in clause (a), for the figures, letters and words "31st Day of December", the figures, letters and words "30th day of November" shall be substituted.

Amendment of section 143.

37. In section 143 of the Income-tax Act, in the *Explanation*, for the word and figures "section 264", the words and figures "sections 246 and 264" shall be substituted with effect from the 1st day of June, 1994.

Amendment of section 154.

38. In section 154 of the Income-tax Act, in sub-section (2), the proviso shall be omitted with effect from the 1st day of June, 1994.

Amendment of section 194C

39. In section 194C of the Income-tax Act, the *Explanation* occurring below sub-section (2) shall be renumbered as *Explanation II*, and before *Explanation II* as so renumbered, the following *Explanation* shall be inserted with effect from the 1st day of June, 1994, namely:—

'*Explanation I.*—For the purposes of sub-section (2), the expression "contractor" shall also include a contractor who is carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and the Government of a foreign State or a foreign enterprise or any association or body established outside India.'.

Insertion of new section 194-I.

40. After section 194H of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 1994, namely:—

Rent.

'194-I. Any person, not being an individual or a Hindu undivided family, who is responsible for paying to any person any income by way of rent, shall, at the time of credit of such income to the

account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of twenty per cent.:

Provided that no deduction shall be made under this section where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed one hundred and twenty thousand rupees.

Explanation.—For the purposes of this section,—

(i) "rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or any building (including factory building), together with furniture, fittings and the land appurtenant thereto, whether or not such building is owned by the payee;

(ii) where any income is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.'.

Amendment of section 196A.

41. In section 196A of the Income-tax Act, in sub-section *(2)*, for the words "twenty-five per cent.", the words "twenty per cent." shall be substituted with effect from the 1st day of June, 1994.

Amendment of section 197.

42. In section 197 of the Income-tax Act, in sub-section *(1)*, after the figures and letter "194D", the figures and letter ", 194-I" shall be inserted with effect from the 1st day of June, 1994.

Amendment of sections 198 to 200 and 202 to 205.

43. In sections 198, 199, 200, 202, 203, 203A, 204 and 205 of the Income-tax Act, after the word, figures and letter "section 194H," the word, figures and letter "section 194-I,", shall be inserted with effect from the 1st day of June, 1994.

Amendment of section 211.

44. In section 211 of the Income-tax Act, for sub-section *(1)*, the following sub-section shall be substituted with effect from the 1st day of April, 1994, namely:—

"*(1)* Advance tax on the current income calculated in the manner laid down in section 209 shall be payable by—

(a) all the companies, who are liable to pay the same, in four instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in Table I below:

TABLE I

Due date of instalment	Amount payable
On or before the 15th June	Not less than fifteen per cent. of such advance tax.
On or before the 15th September	Not less than forty-five per cent. of such advance tax, as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th December	Not less than seventy-five per cent. of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
On or before the 15th March	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

(b) all the assessees (other than companies), who are liable to pay the same, in three instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in Table II below:

TABLE II

Due date of instalment	Amount payable
On or before the 15th September	Not less than thirty per cent. of such advance tax.
On or before the 15th December	Not less than sixty per cent. of such advance tax, as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th March	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments:

Provided that any amount paid by way of advance tax on or before the 31st day of March shall also be treated as advance tax paid during the financial year ending on that day for all the purposes of this Act.".

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Amendment of section 234C.

45. In section 234C of the Income-tax Act, in sub-section (1), for the portion beginning with the words "Where in any financial year" and ending with the words "as the case may be, sixty per cent. of the tax due on the returned income:", the following shall be substituted with effect from the 1st day of April, 1995, namely:—

"Where in any financial year,—

(a) the company which is liable to pay advance tax under section 208 has failed to pay such tax or—

(i) the advance tax paid by the company on its current income on or before the 15th day of June is less than fifteen per cent. of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of September is less than forty-five per cent. of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of December is less than seventy-five per cent. of the tax due on the returned income, then, the company shall be liable to pay simple interest at the rate of one and one-half per cent. per month for a period of three months on the amount of the shortfall from fifteen per cent. or forty-five per cent. or seventy-five per cent., as the case may be, of the tax due on the returned income;

(ii) the advance tax paid by the company on its current income on or before the 15th day of March is less than the tax due on the returned income, then, the company shall be liable to pay simple interest at the rate of one and one-half per cent. on the amount of the shortfall from the tax due on the returned income:

Provided that if the advance tax paid by the company on its current income on or before the 15th day of June or the 15th day of September, is not less than twelve per cent. or, as the case may be, thirty-six per cent. of the tax due on the returned income, then, it shall not be liable to pay any interest on the amount of the shortfall on those dates;

(b) the assessee, other than a company, who is liable to pay advance tax under section 208 has failed to pay such tax or,—

(i) the advance tax paid by the assessee on his current income on or before the 15th day of September is less than thirty per cent. of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of December is less than sixty per cent. of the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one and one-half per cent. per month for a period of three months on the amount of the shortfall from thirty per cent. or, as the case may be, sixty per cent. of the tax due on the returned income;

(ii) the advance tax paid by the assessee on his current income on or before the 15th day of March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one and one-half per cent. on the amount of the shortfall from the tax due on the returned income: .

Amendment of section 246.

46. In section 246 of the Income-tax Act, with effect from the 1st day of June, 1994,—

(a) in sub-section *(1)*, in clause *(a)*, after the words "under this Act", the words, brackets, figures and letter, "or an intimation under sub-section *(1)* or sub-section *(1B)* of section 143, where the assessee objects to the making of adjustments," shall be inserted;

(b) in sub-section *(2)*, in clause *(a)*, for the words, brackets and figure "an order specified in sub-section *(1)* where such order", the words, brackets and figure "an intimation or order specified in sub-section *(1)* where such intimation is sent or such order" shall be substituted.

Amendment of section 269.

47. In section 269 of the Income-tax Act, with effect from the 1st day of April, 1995,—

(a) clause *(iii)* shall be omitted;

(b) in clause *(vi)*, the word "Goa," shall be omitted.

Amendment of section 273A.

48. In section 273A of the Income-tax Act, after sub-section *(6)*, the following sub-section shall be inserted, with effect from the 1st day of June, 1994, namely:—

"*(7)* Notwithstanding anything contained in sub-section *(6)*, the provisions of sub-section *(1)*, sub-section *(2)*, or, as the case may be, sub-section *(4)* [as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989], shall apply in the case of reduction or waiver of penalty or interest in relation to any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year, with the modifications that the power under the said sub-section *(1)* shall be exercisable only by the Commissioner and instead of the previous approval of the Board, the Commissioner shall obtain the previous approval of the Chief Commissioner or Director General, as the case may be, while dealing with such case".

3 of 1989

Amendment of section 296.

49. In section 296 of the Income-tax Act, after the words "every rule made under this Act", the words, brackets, figures and letters ", the rules of procedure framed by the Settlement Commission under sub-section *(7)* of section 245F, the Authority for Advance Rulings under section 245V and the Appellate Tribunal under sub-section *(5)* of section 255" shall be inserted with effect from the 1st day of June, 1994.

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Con-sequential amendments.

50. The following amendments (being consequential in nature) shall be made in the Income-tax Act,—

(a) in section 44AB, in the *Explanation*, in clause *(ii)*, in sub-clause *(a)*, for the figures, letters and words "31st day of December", the figures, letters and words "30th day of November" shall be substituted;

(b) in section 80CC, in sub-section *(1)*,—

(i) in clause *(b)*, the word "or", occurring at the end, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1978;

(ii) clause *(c)* shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1978;

(c) in section 80CCA, in sub section *(1)*,—

(i) in clause *(b)*, the word "or", occurring at the end, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1988;

(ii) clause *(c)* shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1988;

(d) in section 80CCB, in sub section *(1)*,—

(i) in clause *(b)*, the word "or", occurring at the end, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1991;

(ii) clause *(c)* shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1991;

(e) in section 80D, in sub-section *(2)*, clause *(c)* shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1987;

(f) in section 80L, in sub-section *(1)*,—

(i) in clause *(b)*, the word "or", occurring at the end, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1968;

(ii) clause *(c)* shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1968;

(g) in section 88, in sub-section *(1)*,—

(i) in clause *(b)*, the word "or", occurring at the end, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1991;

(ii) clause *(c)* shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1991;

(h) in section 88A, in sub-section *(1)*,—

(i) in clause *(b)*, the word "or", occurring at the end, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1991.

(ii) clause *(c)* shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1991.

Wealth-tax

27 of 1957.

Amendment of section 2.

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

(i) in clause *(ea)*, in the *Explanation*, in clause *(b)*, for the words "period of three years", the words "period of five years" shall be substituted with effect from the 1st day of April, 1995;

(ii) in clause *(s)*, after the word ' "Director", ', 'the words and brackets "Additional Director of Income-tax", "Additional Commissioner of Income-tax", "Additional Commissioner of Income-tax (Appeals)", Deputy Director", 'shall be inserted with effect from the 1st day of June, 1994.

Amendment of section 4.

52. In section 4 of the Wealth-tax Act, in sub-section *(1)*, in clause *(a)*, in sub-clause *(ii)*, after the words "not being", the words, figures and letter "a minor child suffering from any disability of the nature specified in section 80U of the Income-tax Act or" shall be inserted with effect from the 1st day of April, 1995.

Amendment of section 46.

53. In section 46 of the Wealth-tax Act, in sub-section *(4)*, after the words "every rule made under this Act", the words, brackets, figures and letter "and the rules of procedure framed by the Settlement Commission under sub-section *(7)* of section 22F" shall be inserted with effect from the 1st day of June, 1994.

Gift-tax

18 of 1958.

Amendment of section 2.

54. In section 2 of the Gift-tax Act, 1958 (hereinafter referred to as the Gift-tax Act), in clause *(xxv)*, after the word ' "Director", ', the words and brackets' "Additional Director of Income-tax", "Additional Commissioner of Income-tax", "Additional Commissioner of Income-tax (Appeals)", "Deputy Director", ' shall be inserted with effect from the 1st day of June, 1994.

55. In section 5 of the Gift-tax Act, in sub-section *(1)*, in clause *(vii)*, for the words "thirty thousand", the words "one hundred thousand" shall be substituted with effect from the 1st day of April, 1995. Amendment of section 5.

Interest-tax

56. In section 3 of the Interest-tax Act, 1974, in sub-section *(3)*, with effect from the 1st day of June, 1994,— Amendment of section 3 of Act 45 of 1974.

(i) after the words "Income-tax Officer", the words "or Assistant Commissioner" shall be inserted;

(ii) for the words "Director of Inspection", the word "Director" shall be substituted;

(iii) for the words "Inspecting Assistant Commissioner", the words "Additional Commissioner of Income-tax or the Deputy Commissioner" shall be substituted.

Expenditure-tax

35 of 1987.

57. In the Expenditure-tax Act, 1987 (hereinafter referred to as the Expenditure-tax Act), in section 4, in clause *(a)*, for the words "twenty per cent.", the words "ten per cent." shall be substituted with effect from the 1st day of June, 1994. Amendment of section 4.

58. In the Expenditure-tax Act, in section 6, with effect from the 1st day of June, 1994,— Amendment of section 6.

(i) in sub-section *(1)*, for the words "Deputy Director", the words "Additional Director of Income-tax, Additional Commissioner of Income-tax, Deputy Director" shall be substituted;

(ii) in sub-section *(3)*, for the words "Deputy Commissioner", the words "Additional Commissioner of Income-tax or Deputy Commissioner" shall be substituted.

59. In section 17 of the Expenditure-tax Act, in the proviso, for the words "Deputy Commissioner", the words "Additional Commissioner or, as the case may be, of the Deputy Commissioner" shall be substituted with effect from the 1st day of June, 1994. Amendment of section 17.

CHAPTER IV

INDIRECT TAXES

Customs

60. In the Customs Act, 1962 (hereinafter referred to as the Customs Act),— Amendment of Act 52 of 1962.

(1) for section 20, the following section shall be substituted, namely:—

'20. If goods are imported into India after exportation therefrom, such goods shall be liable to duty and be subject to all the conditions and restrictions, if any, to which goods of the like kind and value are liable or subject, on the importation thereof: Re-importation of goods.

Provided that if such importation (other than importation of goods exported in bond or of goods produced or manufactured in a free trade zone) takes place within three years after the exportation of such goods and it is shown to the satisfaction of the Assistant Collector of Customs that the goods are the same which were exported, the goods may be admitted—

(a) in any case where at the time of exportation of the goods, drawback of any customs or excise duty levied by the Union or both was allowed, on payment of customs duty equal to the amount of such drawback;

(b) in any case where at the time of exportation of the goods, drawback of any excise duty levied by a State was allowed, on payment of customs duty equal to such excise duty leviable at the time and place of importation of the goods;

(c) in any other case, without payment of duty:

Provided further that if the Central Government is satisfied that it is necessary in the public interest so to do, it may, by order in each case, extend the aforesaid period of three years for such further period as it may deem fit.

Explanation I.—Where in respect of any goods produced or manufactured in a free trade zone, any duty leviable under this sub-section is leviable at different rates, then, such duty shall be leviable at the highest of those rates.

Explanation II.—For the purposes of this section, "free trade zone" has the same meaning as in *Explanation 2* to sub-section *(1)* of section 3 of the Central Excises and Salt Act, 1944.';

1 of 1944.

(2) in section 23, for sub-section *(2)*, the following sub-section shall be substituted, namely:—

"*(2)* The owner of any imported goods may, at any time before an order for clearance of goods for home consumption under section 47 or an order for permitting the deposit of goods in a warehouse under section 60 has been made, relinquish his title to the goods and thereupon he shall not be liable to pay the duty thereon.";

(3) in section 59, in sub-section *(1)*, the words, brackets and letter "clause *(a)* of" shall be omitted;

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(4) section 59A shall be omitted;

(5) in sections 60, 72 and 73, the words, figures and letter "or section 59A" shall be omitted;

(6) for section 61, the following section shall be substituted, namely:—

Period for which goods may remain warehoused.

'61. (1) Any warehoused goods may be left in the warehouse in which they are deposited or in any warehouse to which they may be removed,—

(a) in the case of capital goods intended for use in any hundred per cent. export oriented undertaking, till the expiry of five years; and

(b) in the case of any other goods, till the expiry of one year,

after the date on which the proper officer has made an order under section 60 permitting the deposit of the goods in a warehouse:

Provided that—

(i) in the case of any goods which are not likely to deteriorate, the period specified in sub-section (1) may, on sufficient cause being shown, be extended by the Collector of Customs for a period not exceeding six months and by the Principal Collector of Customs for such further period as he may deem fit;

(ii) in the case of any goods referred to in clause (b), if they are likely to deteriorate, the aforesaid period of one year may be reduced by the Collector of Customs to such shorter period as he may deem fit:

Provided further that when the licence for any private warehouse is cancelled, the owner of any goods warehoused therein shall, within seven days from the date on which notice of such cancellation is given or within such extended period as the proper officer may allow, remove the goods from such warehouse to another warehouse or clear them for home consumption or exportation.

(2) Where any warehoused goods remain in a warehouse beyond the period specified in sub-section (1) by reason of extension of the aforesaid period or otherwise, interest at such rate as is specified in section 47 shall be payable, on the amount of duty payable at the time of clearance of the goods in accordance with the provisions of section 15 on the warehoused goods, for the period from the expiry of the said warehousing period till the date of payment of duty on the warehoused goods:

Provided that the Board may, if it considers it necessary so to do in the public interest, by order and under circumstances of an exceptional nature, to be specified in such order, waive the whole or part of any interest payable under this section in respect of any warehoused goods:

Provided further that the Board may, if it is satisfied that it is necessary so to do in the public interest, by notification in the Official Gazette, specify the class of goods in respect of which no interest shall be charged under this section.

Explanation.—For the purposes of this section, "hundred per cent. export oriented undertaking" has the same meaning as in *Explanation 2* to sub-section (1) of section 3 of the Central Excises and Salt Act, 1944.'. 1 of 1944.

Amendment of Act 51 of 1975.

61. The Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act) shall be amended in the manner specified in the Second Schedule.

Excise

Amendment of Act 5 of 1986.

62. The Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act),—

(a) shall be amended in the manner specified in the Third Schedule; and

(b) shall, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, be also amended in the manner specified in the Fourth Schedule.

Amendment of Act 58 of 1957.

63. In the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act),—

(a) in section 3, for sub-section (3), the following sub-section shall be substituted, namely:— 1 of 1944.

"(3) The provisions of the Central Excises and Salt Act, 1944 and the rules made thereunder, including those relating to refunds, exemptions from duty, offences and penalties, shall, so far as may be, apply in relation to levy and collection of the additional duties as they apply in relation to the levy and collection of the duties of excise on the goods specified in sub-section (1).";

(b) the First Schedule shall be amended in the manner specified in the Fifth Schedule.

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CHAPTER V

SERVICE TAX

Extent, commencement and application.

64. *(1)* This Chapter extends to the whole of India except the State of Jammu and Kashmir.

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

(3) It shall apply to taxable services provided on or after the commencement of this Chapter.

Definitions.

65. In this Chapter, unless the context otherwise requires,—

52 of 1962. *(1)* "Appellate Tribunal" means the Customs, Excise and Gold (Control) Appellate Tribunal constituted under section 129 of the Customs Act, 1962;

(2) "assessee" means a person responsible for collecting the service tax payable under the provisions of this Chapter and includes his agent;

54 of 1963. *(3)* "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963;

1 of 1944. *(4)* "Central Excise Officer" has the meaning assigned to it in clause *(b)* of section 2 of the Central Excises and Salt Act, 1944;

of 1972. *(5)* "general insurance business" has the meaning assigned to it in clause *(g)* of section 3 of the General Insurance Business (Nationalisation) Act, 1972;

(6) "insurer" means any person carrying on the general insurance business in India;

(7) "person responsible for collecting the service tax" means a person who is required to collect service tax under this Chapter or is required to pay any other sum of money under this Chapter and includes every person in respect of whom any proceedings under this Chapter have been taken;

4 of 1938. *(8)* "policy-holder" has the meaning assigned to it in clause *(2)* of section 2 of the Insurance Act, 1938;

(9) "prescribed" means prescribed by rules made under this Chapter;

42 of 1956. *(10)* "recognised stock exchange" has the meaning assigned to it in clause *(f)* of section 2 of the Securities Contracts (Regulation) Act, 1956;

42 of 1956. *(11)* "securities" has the meaning assigned to it in clause *(h)* of section 2 of the Securities Contracts (Regulation) Act, 1956;

(12) "service tax" means tax chargeable under the provisions of this Chapter;

15 of 1992. *(13)* "stock-broker" means a stock-broker who has either made an application for registration or is registered as a stock-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;

15 of 1992. *(14)* "sub-broker" means a sub-broker who has either made an application for registration or is registered as a sub-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;

(15) "subscriber" means a person to whom a telephone connection has been provided by the telegraph authority;

(16) "taxable service" means any service provided,—

(a) to an investor, by a stock-broker in connection with the sale or purchase of securities listed on a recognised stock exchange;

(b) to a subscriber, by the telegraph authority, in relation to a telephone connection;

(c) to a policy-holder, by an insurer carrying on general insurance business, in relation to general insurance business;

13 of 1885. *(17)* "telegraph authority" has the meaning assigned to it in clause *(6)* of section 3 of the Indian Telegraph Act, 1885; and includes a person who has been granted a licence under the first proviso to sub-section *(1)* of section 4 of that Act;

1 of 1944. *(18)* words and expressions, used but not defined in this Chapter and defined in the Central Excises and Salt Act, 1944 or the rules made thereunder, shall apply, so far as may be, in relation to service tax as they apply in relation to duty of excise.

Charge of service tax.

66. On and from the commencement of this Chapter, there shall be charged a tax (hereinafter referred to as service tax) at the rate of five per cent. of the value of the taxable services provided to any person by the person responsible for collecting the service tax.

Valuation of taxable services for charging service tax.

67. For the purposes of this Chapter, the value of taxable services,—

(a) in relation to service provided by a stock-broker, shall be the aggregate of the commission or brokerage charged by him on the sale or purchase of securities from the investors and includes the commission or brokerage paid by the stock-broker to any sub-broker;

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(b) in relation to telephone connection provided to the subscribers, shall be the gross total amount (including adjustments made by the telegraph authority from any deposits made by the subscribers at the time of applications for telephone connections) received by the telegraph authority from the subscribers.

Explanation.—For the removal of doubts it is hereby declared that the value of taxable service in this clause shall not include the initial deposits made by the subscribers at the time of applications for telephone connections;

(c) in relation to services of general insurance business provided to the policy holders, shall be the total amount of the premium received by the insurer from the policy holders.

Collection and recovery of service tax.

68. (1) Every stock-broker, the telegraph authority or the insurer who is providing taxable services to any person shall collect the service tax at the rate specified in section 66.

(2) The service tax collected during any calendar month in accordance with the provisions of sub-section (1) shall be paid to the credit of the Central Government by the 15th of the month immediately following the said calendar month.

(3) Any person, responsible for collecting the service tax, who fails to collect the tax in accordance with the provisions of sub-section (1), shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with the provisions of sub-section (2).

Registration.

69. (1) Every person responsible for collecting the service tax under this Chapter shall, within such time and manner and in such form, as may be prescribed, make an application for registration under this Chapter to the Central Excise Officer.

(2) If a person responsible for collecting the service tax provides taxable services from more than one premises or offices, he shall make separate applications for registration in respect of each such premises or office.

(3) The provisions of sub-section (1) or sub-section (2) shall not apply in such cases as the Central Government may, by notification in the Official Gazette, specify and such notification may contain conditions which will regulate exemption from requirement for registration.

(4) If the Central Excise Officer, to whom an application under sub-section (1) or sub-section (2) is made, is satisfied that the application is in conformity with the provisions of this Chapter and the rules made thereunder, he shall register the applicant within thirty days of the receipt of such application and grant to him a certificate of registration in the prescribed form.

(5) Every person who ceases to provide taxable service shall surrender his certificate of registration immediately to the Central Excise Officer.

(6) The certificate of registration granted under sub-section (4) may, on the application of the person to whom it has been granted, be amended by the Central Excise Officer granting it if he is satisfied that by reason of change in the name or place of the applicant or for any other reason, the certificate of registration should be so amended.

Person responsible for collecting service tax to furnish prescribed return.

70. (1) Every person responsible for collecting the service tax shall furnish or cause to be furnished to the Central Excise Officer in the prescribed form and verified in the prescribed manner, a quarterly return, within fifteen days of the end of the preceding quarter, showing—

(a) the aggregate of payments received in respect of the value of taxable services;

(b) the amount of service tax collected;

(c) the amount of service tax paid to the credit of the Central Government; and

(d) such other particulars as may be prescribed.

(2) In the case of any person who, in the opinion of Central Excise Officer, is responsible for collecting service tax under this Chapter but who has not furnished a return under sub-section (1), the Central Excise Officer may, before the expiry of the quarter in which the return is to be furnished, issue a notice to such person and serve it upon him, requiring him to furnish within thirty days from the date of service of the notice the return in the prescribed form and verified in the prescribed manner setting forth the prescribed particulars.

(3) Any person responsible for collecting the service tax who has not furnished the return within the time allowed under sub-section (1) or sub-section (2) or having furnished a return under sub-section (1) or sub-section (2) discovers any omission or wrong statement therein, may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

Assessment.

71. (1) For the purposes of making an assessment under this Chapter, the Central Excise Officer may serve on any person, who has furnished a return under section 70 or upon whom a notice has been served under sub-section (2) of section 70 (whether a return has been furnished or not), a notice requiring him on a date therein to be specified, to produce or cause to be produced such accounts or documents or other evidence as the Central Excise Officer may require for the purposes of this Chapter and may, from time to time, serve further notices requiring the production of such further accounts or documents or other evidence as he may require.

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(2) The Central Excise Officer, after considering such accounts, documents or other evidence, if any, as he has obtained under sub-section *(1)* and after taking into account any relevant material which he has gathered, shall, by an order in writing, assess the value of taxable service and the amount of service tax payable on the basis of such assessment.

Best judgment assessment.

72. If—

(a) any person fails to make the return required by any notice given under sub-section *(2)* of section 70 and has not made a return or a revised return under sub-section *(3)* of that section, or

(b) any person having made a return fails to comply with all the terms of a notice issued under sub-section *(1)* of section 71, or

(c) the Central Excise Officer is not satisfied with the correctness or the completeness of the accounts of the assessee,

the Central Excise Officer, after taking into account all the relevant material which he has gathered, shall, by an order in writing, make the assessment of the value of taxable service to the best of his judgment and determine the sum payable by the assessee or refundable to the assessee on the basis of such assessment.

Value of taxable services escaping assessment.

73. If—

(a) the Central Excise Officer has reason to believe that by reason of omission or failure on the part of the assessee to make a return under section 70 for any quarter or to disclose wholly and truly all material facts necessary for his assessment for any quarter, the value of taxable service for that quarter has escaped assessment or has been under-assessed, or

(b) notwithstanding that there has been no omission or failure as mentioned in clause *(a)* on the part of the assessee, the Central Excise Officer has, in consequence of information in his possession, reason to believe that the value of any taxable service assessable in any quarter has escaped assessment or has been under-assessed,

he may, in cases falling under clause *(a)*, at any time within five years, and in cases falling under clause *(b)*, at any time within six months from the date for filing the return, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub-section *(2)* of section 70 and may proceed to assess or re-assess the value of taxable service, and the provisions of this Chapter shall, so far as may be, apply, as if the notice were a notice issued under that sub-section.

Rectification of mistake.

74. *(1)* With a view to rectifying any mistake apparent from the record, the Central Excise Officer who passed any order under the provisions of this Chapter may, within two years of the date on which such order was passed, amend the order.

(2) Where any matter has been considered and decided in any proceeding by way of appeal or revision relating to an order referred to in sub-section *(1)*, the Central Excise Officer passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

(3) Subject to the other provisions of this section, the Central Excise Officer concerned—

(a) may make an amendment under sub-section *(1)* of his own motion; or

(b) shall make such amendment if any mistake is brought to his notice by the assessee or the Collector of Central Excise or the Collector of Central Excise (Appeals).

(4) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the Central Excise Officer concerned has given notice to the assessee of his intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(5) Where an amendment is made under this section, an order shall be passed in writing by the Central Excise Officer concerned.

(6) Subject to the other provisions of this Chapter where any such amendment has the effect of reducing the assessment, the Central Excise Officer shall make any refund which may be due to such assessee.

(7) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Central Excise Officer shall make an order specifying the sum payable by the assessee and the provisions of this Chapter shall apply accordingly.

Interest on delayed payment of service tax.

75. Every person responsible for collecting service tax and paying it to the credit of the Central Government in accordance with the provisions of section 68, who fails to credit the tax or any part thereof to the account of the Central Government within the period specified in that section, shall pay simple interest at the rate of one and one half per cent. for every month or part of a month by which such crediting of the tax or any part thereof is delayed.

Penalty for failure to collect or pay service tax.

76. Any person responsible for collecting service tax in accordance with the provisions of sub-section *(1)* of section 68, who—

(a) fails to collect such tax; or

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(b) having collected the service tax, fails to pay such tax to the credit of the Central Government in accordance with the provisions of sub-section *(2)* of that section,

shall pay,—

(i) in the case referred to in clause *(a)*, in addition to paying the tax in accordance with the provisions of sub-section *(3)* of that section and interest in accordance with the provisions of section 75, by way of penalty, a sum equal to the amount of service tax that he failed to collect; and

(ii) in the case referred to in clause *(b)*, in addition to paying the tax in accordance with the provisions of sub-section *(2)* of that section and interest in accordance with the provisions of section 75, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which the failure continues, so, however, that the penalty under this clause shall not exceed the amount of service tax that he failed to pay.

Penalty for failure to furnish prescribed return.

77. If a person fails to furnish in due time the return which he is required to furnish under sub-section *(1)* of section 70 or by notice given under sub-section *(2)* of that section, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees, but which may extend to two hundred rupees for every day during which the failure continues.

Penalty for suppressing value of taxable service.

78. If the Central Excise Officer in the course of any proceedings under this Chapter is satisfied that any person has, with intent to evade payment of service tax, suppressed or concealed the value of taxable service or has furnished inaccurate value of such taxable service, he may direct that such person shall pay by way of penalty, in addition to service tax and interest, if any, payable by him, a sum which shall not be less than, but which shall not exceed twice, the amount of service tax sought to be evaded by reason of suppression or concealment of the value of taxable service or the furnishing of inaccurate value of such taxable service:

Provided that if the value of taxable service (as determined by the Central Excise Officer on assessment) in respect of which value has been suppressed or concealed or inaccurate value has been furnished exceeds a sum of twenty-five thousand rupees, the Central Excise Officer shall not issue any direction for payment by way of penalty without the previous approval of the Collector of Central Excise.

Penalty for failure to comply with notice.

79. If the Central Excise Officer in the course of any proceedings under this Chapter is satisfied that any person has failed to comply with a notice under sub-section *(1)* of section 71, he may direct that such person shall pay, by way of penalty, in addition to any service tax and interest, if any, payable by him, a sum which shall not be less than ten per cent., but which shall not exceed fifty per cent., of the amount of the service tax, if any, which would have been avoided if the value of taxable service stated in the return by such person had been accepted as the correct value of taxable service.

Penalty not to be imposed in certain cases.

80. Notwithstanding anything contained in the provisions of section 76, section 77, section 78 or section 79, no penalty shall be imposable on the assessee for any failure referred to in the said provisions if the assessee proves that there was reasonable cause for the said failure.

Offences by companies.

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

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

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

Explanation.—For the purposes of this section,—

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

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

Power to search premises.

82. *(1)* If the Central Excise Officer has reason to believe that any documents or books or things which in his opinion will be useful for or relevant to any proceeding under this Chapter are secreted in any place, he may authorise any other Central Excise Officer to search or may himself search for such documents or books or things.

(2) The provisions of the Code of Criminal Procedure, 1973, relating to searches, shall, so far as may be, apply to searches under this section as they apply to searches under that Code. 2 of 1974.

Application of certain provisions of Act 1 of 1944.

83. The provisions of the following sections of the Central Excises and Salt Act, 1944, as in force from time to time, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise:—

9C, 9D, 11, 11B, 12B, 12C, 12D, 12E, 14, 15, 35F to 35O (both inclusive), 35Q, 36, 36A, 36B, 37A, 37B, 37C, 37D and 40.

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Revision of orders by the Collector of Central Excise.

84. *(1)* The Collector of Central Excise may call for the record of a proceeding under this Chapter which has been taken by the Central Excise Officer subordinate to him and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Chapter, pass such order thereon as he thinks fit.

(2) No order which is prejudicial to the assessee shall be passed under this section unless the assessee has been given an opportunity of being heard.

(3) The Collector of Central Excise shall communicate the order passed by him under sub-section *(1)* to the assessee, the Central Excise Officer and the Board.

(4) No order under this section shall be passed by the Collector of Central Excise in respect of any issue if an appeal against such issue is pending before the Collector of Central Excise (Appeals).

(5) No order under this section shall be passed after the expiry of two years from the date on which the order sought to be revised has been passed.

Appeals to the Collector of Central Excise (Appeals).

85. *(1)* Any person aggrieved by any assessment order passed by the Central Excise Officer under section 71, section 72 or section 73, or denying his liability to be assessed under this Chapter, or by an order levying interest or penalty under this Chapter may appeal to the Collector of Central Excise (Appeals).

(2) Every appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) An appeal shall be presented within three months from the date of receipt of the decision or order of the Central Excise Officer, relating to service tax, interest or penalty under this Chapter:

Provided that the Collector of Central Excise (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of three months.

(4) The Collector of Central Excise (Appeals) shall hear and determine the appeal and, subject to the provisions of this Chapter, pass such orders as he thinks fit and such orders may include an order enhancing the service tax, interest or penalty:

Provided that an order enhancing the service tax, interest or penalty shall not be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(5) Subject to the provisions of this Chapter, in hearing the appeals and making order under this section, the Collector of Central Excise (Appeals) shall exercise the same powers and follow the same procedure as he exercises and follows in hearing the appeals and making orders under the Central Excises and Salt Act, 1944.

1 of 1944.

Appeals to Appellate Tribunal

86. *(1)* Any assessee aggrieved by an order passed by a Collector of Central Excise under section 84, or an order passed by a Collector of Central Excise (Appeals) under section 85, may appeal to the Appellate Tribunal against such order.

(2) The Board may, if it objects to any order passed by the Collector of Central Excise under section 84, or the Collector of Central Excise may, if he objects to any order passed by the Collector of Central Excise (Appeals) under section 85, direct the Central Excise Officer to Appeal to the Appellate Tribunal against the order.

(3) Every appeal under sub-section *(1)* or sub-section *(2)* shall be filed within three months of the date on which the order sought to be appealed against is received by the assessee, the Board or by the Collector of Central Excise, as the case may be.

(4) The Central Excise Officer or the assessee, as the case may be, on receipt of a notice that an appeal against the order of the Collector of Central Excise or the Collector of Central Excise (Appeals) has been preferred under sub-section *(1)* or sub-section *(2)* by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within forty-five days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Collector of Central Excise or the Collector of Central Excise (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section *(3)*.

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section *(3)* or sub-section *(4)* if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section *(2)* or a memorandum of cross-objections referred to in sub-section *(4)*, be accompanied by a fee of two hundred rupees.

(7) Subject to the provisions of this Chapter, in hearing the appeals and making orders under this section, the Appellate Tribunal shall exercise the same powers and follow the same procedure as it exercises and follows in hearing the appeals and making orders under the Central Excises and Salt Act, 1944.

1 of 1944.

Wilful attempt to evade service tax, etc.

87. If a person wilfully attempts in any manner whatsoever to evade collection or payment of any service tax, interest or penalty chargeable or imposable under this Chapter, or to suppress or conceal the total value of taxable services, he shall, without prejudice to any penalty that may be imposable on him under any other provisions of this Chapter, be punishable with imprisonment for a term which may extend to seven years and with fine.

Explanation.—For the purposes of this section, a wilful attempt to evade payment of any service tax, interest or penalty chargeable or imposable under this Chapter shall include a case where any person—

(i) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Chapter) containing a false entry or statement; or

(ii) makes or causes to be made any false entry or statement in such books of account or other document; or

(iii) wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or

(iv) causes any other circumstances to exist which will have the effect of enabling such person to evade payment of any service tax, interest or penalty chargeable or imposable under this Chapter.

Failure to furnish prescribed returns.

88. If a person fails to furnish the return which he is required to furnish by a notice given under sub-section *(2)* of section 70, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Chapter, be punishable with imprisonment for a term which may extend to three years and with fine.

False statement in verification, etc.

89. If a person makes a statement in any verification under this Chapter or any rule made thereunder, or delivers an account or statement, which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years and with fine.

Abetment of false return, etc.

90. If a person abets or induces in any manner another person to make and deliver an account or a statement or declaration relating to any taxable service which is false and which he either knows to be false or does not believe to be true or to commit an offence under section 87, he shall be punishable with imprisonment for a term which may extend to seven years and with fine.

Certain offences to be non-cognizable.

91. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under section 87 or section 88 or section 89 or section 90 shall be deemed to be non-cognizable within the meaning of that Code. 2 of 1974.

Institution of proceedings.

92. A person shall not be proceeded against for any offence under section 87 or section 88 or section 89 or section 90 except with the previous sanction of the Principal Collector of Central Excise.

Power to grant exemption from service tax.

93. The Central Government may, if it is satisfied that it is necessary so to do in the public interest, by notification in the Official Gazette, exempt generally or subject to such conditions as may be specified in the notification, taxable service of any specified description from the whole or any part of service tax leviable thereon.

Power to make rules.

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

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

(a) the time and manner and the form in which application for registration may be made under sub-section *(1)* of section 69 and the form in which the certificate of registration may be granted under sub-section *(4)* of section 69;

(b) the form in which returns under section 70 may be furnished, the manner in which they may be verified and other particulars which a form may contain;

(c) the form in which appeal under section 85 or under sub-section *(6)* of section 86 may be filed and the manner in which they may be verified;

(d) the manner in which a memorandum of cross-objections under sub-section *(4)* of secton 86 may be verified;

(e) any other matter which by this Chapter is to be or may be prescribed.

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

(4) Every rule made under this Chapter and every notification issued under section 93 shall be laid, as soon as may be, after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Power to remove difficulties.

95. *(1)* If any difficulty arises in giving effect to the provisions of this Chapter, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Chapter come into force.

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

Consequential amendment.

96. In the Economic Offences (Inapplicability of Limitation) Act, 1974, in the Schedule, after entry 7 relating to the Central Excises and Salt Act, 1944, the following entry shall be inserted, namely:— 12 of 1974. 1 of 1944

"7A. Chapter V of the Finance Act, 1994.".

CHAPTER VI

FOREIGN TRAVEL TAX

Amendment of Act 21 of 1979.

97. In the Finance Act, 1979, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

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

Interest for default in payment of foreign travel tax.

"35A. *(1)* Where any carrier or other person fails to pay the foreign travel tax to the credit of the Central Government under sub-section *(2)* of section 35, in accordance with the rules made under this Chapter, he shall pay an interest on the amount of tax not so paid for the entire period for which payment of such tax has been delayed, at such rate, not below twenty per cent. and not exceeding thirty per cent. per annum, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(2) Where, on or before the date of commencement of section 97 of the Finance Act, 1994, the foreign travel tax had not been paid by any carrier or other person to the credit of the Central Government, in accordance with the rules made under this Chapter, the carrier or other person shall pay the amount of such tax within a period of thirty days of such commencement, failing which he shall be liable to pay the interest in accordance with the provisions of sub-section *(1)*.";

(b) in section 38, for sub-section *(3)*, the following sub-sections shall be substituted, namely:—

"*(3)* Every carrier or other person who fails to pay the foreign travel tax to the credit of the Central Government under sub-section *(2)* of section 35 shall, in addition to the payment of such tax and the interest leviable thereon, be liable to pay penalty which shall not be less than one-fifth but which may extend to three times of the amount of the tax not so paid to the credit of the Central Government.

(4) Any rule made under this Chapter may provide that in case of breach thereof by the carrier or other person, he shall be liable to a penalty which shall not be less than five hundred rupees but which may extend to fifty thousand rupees, and where the breach is a continuing one, with further penalty which may extend to five hundred rupees for every day after the first during which such breach continues.

(5) Any penalty under this section may be adjudged, collected and paid to the credit of the Central Government by such authority and in such manner as may be specified in the rules made under this Chapter:

Provided that no order for imposing a penalty shall be passed by such authority unless the carrier or other person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such authority.";

(c) after section 38, the following section shall be inserted, namely:—

Modes of recovery.

"38 A. *(1)* Where the foreign travel tax or interest or penalty is not paid by a carrier or other person, as required under the provisions of sub-section *(2)* of section 35, section 35A or section 38, the authority specified in the rules (hereinafter referred to as the authority) may, after the tax, interest or penalty has been determined under the rules, proceed to recover the amount of such tax, interest or penalty by any mode specified in sub-section *(2)* or sub-section *(3)*.

(2) The authority may require any person, from whom any amount is due to the carrier or other person, to deduct the tax, interest or penalty so determined from the said amount and such person shall comply with any requisition by the authority and shall pay the amount so deducted to the credit of the Central Government:

Provided that nothing in this sub-section shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908.

5 of 1908.

(3) The authority may prepare a certificate signed by it specifying the amount due and send it to the Collector of the district in which the carrier or other person owns property or resides or carries on business and the said Collector, on receipt of such certificate, shall proceed to recover from the said carrier or other person, the amount specified thereunder as if it were an arrear of land revenue.".

CHAPTER VII

INLAND AND AIR TRAVEL TAX

Amendment of Act 13 of 1989.

98. In the Finance Act, 1989, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(a) after section 43, the following section shall be inserted, namely:—

Interest for default in payment of inland air travel tax.

"43A. *(1)* Where any carrier or other person fails to pay the inland air travel tax to the credit of the Central Government under sub-section *(2)* of section 42, in accordance with the rules made under this Chapter, he shall pay an interest on the amount of tax not so paid for the entire period for which payment of such tax has been delayed, at such rate, not below twenty per cent. and not exceeding thirty per cent. per annum, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

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(2) Where, on or before the date of commencement of section 98 of the Finance Act, 1994, the inland air travel tax had not been paid by any carrier or other person to the credit of the Central Government, in accordance with the rules made under this Chapter, the carrier or other person shall pay the amount of such tax within a period of thirty days of such commencement, failing which he shall be liable to pay the interest in accordance with the provisions of sub-section *(1)*.";

(b) in section 46, for sub-section *(3)*, the following sub-sections shall be substituted, namely:—

"*(3)* Every carrier or other person who fails to pay the inland air travel tax to the credit of the Central Government under sub-section *(2)* of section 42 shall, in addition to the payment of such tax and the interest leviable thereon, be liable to pay penalty which shall not be less than one-fifth but which may extend to three times of the amount of the tax not so paid to the credit of the Central Government.

(4) Any rule made under this Chapter may provide that in case of breach thereof by the carrier or other person, he shall be liable to a penalty which shall not be less than five hundred rupees but which may extend to fifty thousand rupees, and where the breach is a continuing one, with further penalty which may extend to five hundred rupees for every day after the first during which such breach continues.

(5) Any penalty under this section may be adjudged, collected and paid to the credit of the Central Government by such authority and in such manner as may be specified in the rules made under this Chapter:

Provided that no order for imposing a penalty shall be passed by such authority unless the carrier or other person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such authority.";

(c) after section 46, the following section shall be inserted, namely:—

Modes of recovery.

"46A. *(1)* Where the inland air travel tax or interest or penalty is not paid by a carrier or other person, as required under the provisions of sub-section *(2)* of section 42, section 43A or section 46, the authority specified in the rules (hereinafter referred to as the authority) may, after the tax, interest or penalty has been determined under the rules, proceed to recover the amount of such tax, interest or penalty by one or more of the modes specified in sub-section *(2)*, sub-section *(3)* or sub-section *(4)*.

(2) The authority may require any person, from whom any amount is due to the carrier or other person, to deduct the tax, interest or penalty so determined from the said amount and such person shall comply with any requisition by the authority and shall pay the amount so deducted to the credit of the Central Government:

Provided that nothing in this sub-section shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908. 5 of 1908.

(3) The authority may prepare a certificate signed by it specifying the amount due and send it to the Collector of the district in which the carrier or other person owns property or resides or carries on business and the said Collector, on receipt of such certificate, shall proceed to recover from the said carrier or other person, the amount specified thereunder as if it were an arrear of land revenue.

(4) The authority may distrain or arrest any aircraft and any other property belonging to, or under the control of, the carrier or other person, as the case may be, and detain the same until the tax, interest or penalty so determined is paid; and in case any part of the tax, interest or penalty or of the cost of the distress or arrest or of the keeping of the aircraft or other property distrained or arrested, remains unpaid for the space of thirty days next after any such distress or arrest, may cause the said aircraft or other property to be sold and with the proceeds of such sale may satisfy the tax, interest or penalty and the costs including the cost of sale remaining unpaid, and shall render the surplus, if any, to the carrier or other person.".

CHAPTER VIII
MISCELLANEOUS

Amendment of Act 2 of 1899.

99. In the Indian Stamp Act, 1899,—

(i) in section 9, in sub-section *(1)*, in clause *(b)*, after the words "or other body corporate", the words and brackets "or of transfers (where there is a single transferee, whether incorporated or not)" shall be inserted;

(ii) in Schedule I,—

(a) in article No. 14, in the second column, for the words "One rupee", the words "Two rupees" shall be substituted;

(b) in article No. 53,—

(1) in the first column, for the words "twenty rupess", the words "five hundred rupees" shall be substituted;

(2) in the second column, for the words "Twenty paise", the words "One rupee" shall be substituted.

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THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX

Paragraph A

Sub-Paragraph I

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

Rates of income-tax

(1) where the total income does not exceed Rs. 30,000	*Nil;*
(2) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	20 per cent. of the amount by which the total income exceeds Rs. 30,000;
(3) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 4,000 *plus* 30 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. 19,000 *plus* 40 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 or section 112 shall,—

(i) in the case of every individual or Hindu undivided family having a total income exceeding one hundred 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 one hundred thousand rupees,

be increased by a surchage 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, 1994 exceeds Rs. 30,000,—

Rates of income-tax

(1) where the total income does not exceed Rs. 18,000	*Nil;*
(2) where the total income exceeds Rs. 18,000 but does not exceed Rs. 1,00,000	30 per cent. of the amount by which the total income exceeds Rs. 18,000;
(3) where the total income exceeds Rs. 1,00,000	Rs. 24,600 *plus* 40 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 or section 112 shall, in the case of every person having a total income exceeding one hundred 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 *plus* 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 *plus* 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 or section 112 shall, in the case of every person having a total income exceeding one hundred thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax.

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Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income — 40 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified or in section 112 shall, in the case of every firm having a total income exceeding one hundred 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 D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income — 30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified or in section 112 shall, in the case of every person having a total income exceeding one hundred 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 — 45 per cent. of the total income;

(2) where the company is not a company in which the public are substantially interested — 50 per cent. of the total income.

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

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

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government — 50 per cent.;

(ii) on the balance, if any, of the total income — 65 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the provisions of this Paragraph or section 112 shall, in the case of every domestic company 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.

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PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction at the following rates:—

	Rate of income-tax
1. In the case of a person other than a company—	
(*a*) where the person is resident in India—	
(*i*) on income by way of interest other than "Interest on securities"	10 per cent.;
(*ii*) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(*iii*) on income by way of winnings from horse races	40 per cent.;
(*iv*) on income by way of insurance commission	10 per cent.;
(*v*) on income by way of interest payable on—	10 per cent.;
(*A*) any security of the Central or a State Government;	
(*B*) any debentures or other securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(*C*) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and any rules made thereunder;	
(*vi*) on any other income	20 per cent;
(*b*) where the person is not resident in India—	
(i) in the case of a non-resident Indian—	
(*A*) on investment income and long-term capital gains	20 per cent.;
(*B*) on income by way of dividends and interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(*C*) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(*D*) on income by way of winnings from horse races	40 per cent.;
(*E*) on the whole of other income	income-tax at 30 per cent. of the amount of income or income-tax in respect of the income at the rates prescribed in Sub-Paragraph I of Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher;
(*ii*) in the case of any other person—	
(*A*) on income by way of dividends, interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency, and income payable in respect of units (not being income payable to an individual), purchased in foreign currency, of the Unit Trust of India	20 per cent.;
(*B*) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(*C*) on income by way of winnings from horse races	40 per cent.;
(*D*) on income by way of long-term capital gains	20 per cent.;
(*E*) on the whole of the other income	income-tax at 30 per cent. of the amount of income or income-tax in respect of the income at the rates prescribed in

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	Rate of income-tax
	Sub-Paragraph I of Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher.
2. In the case of a company—	
(a) where the company is a domestic company—	
(i) on income by way of interest other than "Interest on securities"	20 per cent.;
(ii) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on any other income	21.5 per cent.;
(b) where the company is not a domestic company—	
(i) on income by way of dividends payable by any domestic company	20 per cent.;
(ii) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(v) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India	30 per cent.;
(vi) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(v)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976	30 per cent.;
(vii) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976	30 per cent.;
(viii) on income payable in respect of units, purchased in foreign currency, of the Unit Trust of India	20 per cent.;
(ix) on income by way of long-term capital gains	20 per cent.;
(x) on any other income	55 per cent.;

Explanation.—For the purpose of item 1 (b) (i) of this Part, "investment income" and "non-resident Indian" shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

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

PART III

RATES FOR CALCULATING OR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 192 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under

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Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or sub-section *(1A)* of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge on such "advance tax" in respect of any income chargeable to tax under section 115B], shall be calculated, charged, deducted or computed at the following rate or rates:—

Paragraph A

Sub-Paragraph I

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

	Rates of income-tax
(1) where the total income does not exceed Rs. 35,000	*Nil;*
(2) where the total income exceeds Rs. 35,000 but does not exceed Rs. 60,000	20 per cent. of the amount by which the total income exceeds Rs. 35,000;
(3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,20,000	Rs. 5,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 60,000;
(4) where the total income exceeds Rs. 1,20,000	Rs. 23,000 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 1,20,000.

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, 1995 exceeds Rs. 35,000,—

	Rates of income-tax
(1) where the total income does not exceed Rs. 18,000	*Nil;*
(2) where the total income exceeds Rs. 18,000 but does not exceed Rs. 1,00,000	30 per cent. of the amount by which the total income exceeds Rs. 18,000;
(3) where the total income exceeds Rs. 1,00,000	Rs. 24,600 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Paragraph B

In the case of every co-operative society,—

	Rates of income-tax
(1) where the total income does not exceed Rs. 10,000	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 *plus* 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 *plus* 35 per cent. of the amount by which the total income exceeds Rs. 20,000.

Paragraph C

In the case of every firm,—

	Rate of income-tax
On the whole of the total income	40 per cent.

Paragraph D

In the case of every local authority,—

	Rate of income-tax
On the whole of the total income	30 per cent.

Paragraph E

In the case of a company,—

	Rates of income-tax
I. In the case of a domestic company	40 per cent. of the total income;
II. In the case of a company other than a domestic company,—	
(i) on so much of the total income as consists of—	
(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the Ist 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 55 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the provisions of this Paragraph or section 112 shall, in the case of every domestic company 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.

PART IV

[See section 2(9)*(d)*]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause *(a)* of clause *(1A)* of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section *(2)* of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections *(3)* and *(4)* of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause *(b)* or sub-clause *(c)* of clause *(1A)* of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause *(c)*] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections *(3)* and *(4)* thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly

Rule 3.—Agricultural income of the nature referred to in sub-clause *(c)* of clause *(1A)* of section 2 of the Income-tax Act, being income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause *(c)* shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—*(1)* Where the assessee has in the previous year relevant to the assessment year commencing on the 1st day of April, 1994, 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, 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 or the 1st day of April, 1992 or the 1st day of April, 1993, 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, 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 or the 1st day of April, 1992 or the 1st day of April, 1993,

(ii) 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 or the 1st day of April, 1992 or the 1st day of April, 1993,

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(iii) 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 or the 1st day of April, 1992 or the 1st day of April, 1993,

(iv) 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 or the 1st day of April, 1992 or the 1st day of April, 1993,

(v) 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 or the 1st day of April, 1992 or the 1st day of April, 1993,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, 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, 1992 or the 1st day of April, 1993,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, 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, 1993, and

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993,

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, 1994.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1995 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, 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 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994, 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, 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 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994,

(ii) 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 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994,

(iii) 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 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994,

(iv) 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 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, 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, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, 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, 1993 or the 1st day of April, 1994,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, 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, 1994, and

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994,

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, 1995.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule *(1)* or sub-rule *(2)* shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule *(1)* or, as the case may be, sub-rule *(2)*.

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(4) 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, 1986 (23 of 1986), or of the First Schedule to the Finance Act, 1987 (11 of 1987), or of the First Schedule to the Finance Act, 1988 (26 of 1988), or of the First Schedule to the Finance Act, 1989 (13 of 1989), or of the First Schedule to the Finance Act, 1990 (12 of 1990), or of the First Schedule to the Finance (No.2) Act, 1991 (49 of 1991), or of the First Schedule to the Finance Act, 1992 (18 of 1992), or of the First Schedule to the Finance Act, 1993 (38 of 1993), shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE

(See section 61)

In the First Schedule to the Customs Tariff Act,—

(1) in Chapter 1, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(2) in Chapter 2, for the entry in column (4) occurring against all the sub-heading Nos., the entry "10%" shall be substituted;

(3) in Chapter 3, for the entry in column (4) occurring against all the sub-heading Nos., the entry "10%" shall be substituted;

(4) in Chapter 4, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(5) in Chapter 5,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 0507.10), the entry "10%" shall be substituted;

(ii) in sub-heading No. 0507.10, for the entries in column (4) and column (5), the entries "10%" and "10%" shall respectively be substituted;

(6) in Chapter 6, for the entry in column (4) occurring against all the sub-heading Nos., the entry "10%" shall be substituted;

(7) in Chapter 7, for the entries in column (4) and column (5) occurring against all the sub-heading Nos., the entries "10%" and "10%" shall respectively be substituted;

(8) in Chapter 8, for the entries in column (4) and column (5) occurring against all the sub-heading Nos. (except sub-heading Nos. 0802.11, 0802.12 and 0806.20), the entries "65%" and "55%" shall respectively be substituted;

(9) in Chapter 9,—

(i) in sub-heading Nos. 0901.11, 0901.12, 0901.21, 0901.22, 0901.30 and 0901.40, for the entries in column (4) and column (5) occurring against each of them, the entries "10%" and "10% less 13 paise per Kg." shall respectively be substituted;

(ii) in sub-heading Nos. 0902.10, 0902.20, 0902.30 and 0902.40, for the entries in column (4) and column (5) occurring against each of them, the entries "10%" and "10% less 26 paise per Kg." shall respectively be substituted;

(iii) in sub-heading No. 0903.00, for the entries in column (4) and column (5), the entries "65%" and "65% less 26 paise per Kg." shall respectively be substituted;

(iv) in sub-heading Nos. 0904.11 and 0904.12, for the entries in column (4) and column (5) occurring against each of them, the entries "65%" and "57.5%" shall respectively be substituted;

(v) in sub-heading Nos. 0904.20 and 0905.00, for the entry in column (4) occurring against each of them, the entry "65%" shall be substituted;

(vi) in sub-heading Nos. 0906.10, 0906.20, 0907.00, 0908.10 and 0908.30, for the entries in column (4) and column (5) occurring against each of them, the entries "65%" and "57.5%" shall respectively be substituted;

(vii) in sub-heading Nos. 0908.20, 0909.10, 0909.20, 0909.30, 0909.40, 0909.50, 0910.10, 0910.20, 0910.30, 0910.40, 0910.50, 0910.91 and 0910.99, for the entry in column (4) occurring against each of them, the entry "65%" shall be sustituted;

(10) in Chapter 11, for the entry in column (4) occurring against all the sub-heading Nos., the entry "10%" shall be substituted;

(11) in Chapter 12,—

(i) in sub-heading Nos. 1201.00, 1202.10, 1202.20, 1203.00, 1204.00, 1205.00, 1206.00, 1207.10, 1207.20, 1207.30, 1207.40, 1207.50, 1207.60, 1207.91, 1207.92 and 1207.99, for the entries in column (4) and column (5) occurring against each of them, the entries "65%" and "55%" shall respectively be substituted;

(ii) in sub-heading Nos. 1208.10, 1208.90, 1209.11, 1209.19, 1209.21, 1209.22, 1209.23, 1209.24, 1209.25, 1209.26, 1209.29, 1209.30, 1209.91, 1209.99, 1210.10, 1210.20, 1211.10, 1211.20, 1211.90, 1212.10, 1212.20, 1212.30, 1212.91, 1212.92, 1212.99, 1213.00, 1214.10 and 1214.90, for the entry in column (4) occurring against each of them, the entry "65%" shall be substituted;

(12) in Chapter 13,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 1301.20), the entry "65%" shall be substituted;

(ii) in sub-heading No. 1301.20, for the entries in column (4) and column (5), the entries "65%" and "55%" shall respectively be substituted;

(13) in Chapter 14, for the entry in column (4) occurring against all the sub-heading Nos., the entry "10%" shall be substituted;

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(14) in Chapter 15,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 1507.10, 1507.90, 1508.10, 1508.90, 1509.10, 1509.90, 1510.00, 1511.10, 1511.90, 1512.11, 1512.19, 1512.21, 1512.29, 1513.11, 1513.19, 1513.21, 1513.29, 1514.10, 1514.90, 1515.11, 1515.19, 1515.21, 1515.29, 1515.30, 1515.40, 1515.50, 1515.60 and 1515.90), the entry "65%" shall be substituted;

(ii) in sub-heading Nos. 1507.10, 1507.90, 1508.10, 1508.90, 1509.10, 1509.90 ,1510.00, 1511.10, 1511.90, 1512.11, 1512.19, 1512.21, 1512.29, 1513.11, 1513.19, 1513.21, 1513.29, 1514.10, 1514.90, 1515.11, 1515.19, 1515.21, 1515.29, 1515.30, 1515.40, 1515.50, 1515.60 and 1515.90, for the entries in column (4) and column (5) occurring against each of them, the entries "65%" and "55%" shall respectively be substituted;

(15) in Chapter 16, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(16) in Chapter 17,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 1702.10), the entry "65%" shall be substituted;

(ii) in sub-heading No. 1702.10, for the entries in column (4), the entry "25%" shall be substituted;

(17) in Chapter 18, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(18) in Chapter 19, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(19) in Chapter 20, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(20) in Chapter 21, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(21) in Chapter 22, in sub-heading Nos. 2201.10, 2201.90, 2202.10, 2202.90 and 2209.00, for the entry in column (4) occurring against each of them, the entry "65%" shall be substituted;

(22) in Chapter 23, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(23) in Chapter 24, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(24) in Chapter 25,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2504.10, 2504.90 and 2527.00), the entry "65%" shall be substituted;

(ii) in sub-heading Nos. 2504.10, 2504.90 and 2527.00, for the entries in column (4) and column (5) occurring against each of them, the entreis "65%" and "55%" shall respectively be substituted;

(25) in Chapter 26,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2620.11, 2620.19, 2620.20, 2620.30, 2620.40, 2620.50, 2620.90 and 2621.00), the entry "10%" shall be substituted;

(ii) in sub-heading Nos. 2620.11, 2620.19, 2620.20, 2620.30, 2620.40, 2620.50 and 2620.90, for the entry in column (4) occurring against each of them, the entry "50%" shall be substituted;

(iii) in sub-heading No. 2621.00, for the entry in column (4), the entry "25%" shall be substituted;

(26) in Chapter 27, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 2716.00), the entry "40%" shall be substituted;

(27) in Chapter 28, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(28) in Chapter 29,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2917.37, 2933.71, 2936.10, 2936.21, 2936.22, 2936.23, 2936.24, 2936.25, 2936.26, 2936.27, 2936.28, 2936.29, 2936.90, 2937.10, 2937.21, 2937.22, 2937.29, 2937.91, 2937.92, 2937.99, 2939.40, 2939.50, 2941.10, 2941.20, 2941.30, 2941.40, 2941.50 and 2941.90), the entry "65%" shall be substituted;

(ii) in sub-heading Nos. 2917.37, 2933.71, 2937.10, 2937.21, 2937.22, 2937.29, 2937.91, 2937.92, 2937.99, 2939.40 and 2939.50, for the entries in column (4) and column (5) occurring against each of them, the entries "65%" and "55%" shall respectively be substituted;

(iii) in sub-heading Nos. 2936.10, 2936.21, 2936.22, 2936.23, 2936.24, 2936.25, 2936.26, 2936.27, 2936.28, 2936.29, 2936.90, 2941.10, 2941.20, 2941.30, 2941.40, 2941.50 and 2941.90, for the entries in column (4) and column (5) occurring against each of them, the entries "65%" and "59%" shall respectively be substituted;

(29) in Chapter 30,—

(i) for the entries in column (4) and column (5) occurring against all the sub-heading Nos. (except sub-heading Nos. 3005.10, 3005.90, 3006.10, 3006.20, 3006.30, 3006.40, 3006.50 and 3006.60), the entries "65%" and "55%" shall respectively be substituted;

(ii) in sub-heading Nos. 3005.10, 3005.90, 3006.10, 3006.20, 3006.30, 3006.40, 3006.50 and 3006.60, for the entry in column (4) occurring against each of them, the entry "65%" shall be substituted;

(30) in Chapter 31, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3102.21, 3105.20, 3105.51, 3105.59, 3105.60 and 3105.90), the entry "65%" shall be substituted;

(31) in Chapter 32,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 3201.90), the entry "65%" shall be substituted;

(ii) in sub-heading No. 3201.90, for the entries in column (4) and column (5), the entries "65%" and "55%", shall respectively be substituted;

(32) in Chapter 33, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(33) in Chapter 34,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3402.11, 3402.12, 3402.13 and 3402.19), the entry "65%" shall be substituted;

(ii) in sub-heading Nos. 3402.11, 3402.12, 3402.13 and 3402.19, for the entries in column (4) and column (5) occurring against each of them, the entries "65%" and "55%" shall respectively be substituted;

(34) in Chapter 35, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(35) in Chapter 36, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(36) in Chapter 37, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(37) in Chapter 38,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3801.10, 3802.10, 3812.10, 3815.11 and 3815.12), the entry "65%" shall be substituted;

(ii) in sub-heading Nos. 3801.10, 3802.10, 3812.10, 3815.11 and 3815.12, for the entries in column (4) and column (5) occurring against each of them, the entries "65%" and "55%" shall respectively be substituted;

(38) in Chapter 39, for the entry in column (4) occurring agianst all the sub-heading Nos., the entry "65%" shall be substituted;

(39) in Chapter 40, for the entry in column (4) occurring against all the sub-heading Nos. the entry "65%" shall be substituted;

(40) in Chapter 41, for the entry in column (4) occurring against all the sub-heading Nos., (except sub-heading Nos. 4101.10, 4101.21, 4101.22, 4101.29, 4101.30, 4101.40, 4102.10, 4102.21, 4102.29, 4103.10, 4103.20 and 4103.90), the entry "65%" shall be substituted;

(41) in Chapter 42, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(42) in Chapter 43, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(43) in Chapter 44, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(44) in Chapter 45, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(45) in Chapter 46, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(46) in Chapter 47, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(47) in Chapter 48, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(48) in Chapter 49, in sub-heading Nos. 4907.00, 4908.10, 4908.90, 4909.00, 4910.00, 4911.10, 4911.91 and 4911.99 for the entry in column (4) occurring against each of them, the entry "45%" shall be substituted;

(49) in Chapter 50,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 5001.00 and 5002.00), the entry "65%" shall be substituted;

(ii) in sub-heading No. 5001.00, for the entry in column (4), the entry "30%" shall be substituted;

(50) in Chapter 51,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 5101.11, 5101.19, 5101.21, 5101.29 and 5101.30), the entry "65%" shall be substituted;

(ii) in sub-heading Nos. 5101.11, 5101.19, 5101.21, 5101.29 and 5101.30, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(51) in Chapter 52, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 5201.00), the entry "65%" shall be substituted;

(52) in Chapter 53, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(53) in Chapter 54, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(54) in Chapter 55, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(55) in Chapter 56, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(56) in Chapter 57, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(57) in Chapter 58, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(58) in Chapter 59, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(59) in Chapter 60, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(60) in Chapter 61, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(61) in Chapter 62, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(62) in Chapter 63, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(63) in Chapter 64, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(64) in Chapter 65, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(65) in Chapter 66, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(66) in Chapter 67, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(67) in Chapter 68, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(68) in Chapter 69, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(69) in Chapter 70, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(70) in Chapter 71, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(71) in Chapter 72, for the entry in column (4) occurring against all the sub-heading Nos., the entry "50%" shall be substituted;

(72) in Chapter 73, for the entry in column (4) occurring against all the sub-heading Nos., the entry "50%" shall be substituted;

(73) in Chapter 74, for the entry in column (4) occurring against all the sub-heading Nos., the entry "50%" shall be substituted;

(74) in Chapter 75,—

(i) for the entry in column (4) occurring against all sub-heading Nos. (except sub-heading Nos. 7501.10, 7501.20, 7502.10 and 7502.20), the entry "50%" shall be substituted;

(ii) in sub-heading Nos. 7501.10, 7501.20, 7502.10 and 7502.20, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(75) in Chapter 76,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7601.10, 7601.20 and 7602.00), the entry "50%" shall be substituted;

(ii) in sub-heading Nos. 7601.10, 7601.20 and 7602.00, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(76) in Chapter 78,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7801.10, 7801.91, 7801.99 and 7802.00), the entry "60%" shall be substituted;

(ii) in sub-heading Nos. 7801.10, 7801.91, 7801.99 and 7802.00, for the entry in column (4) occurring against each of them, the entry "50%" shall be substituted;

(77) in Chapter 79,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7901.11, 7901.12, 7901.20 and 7902.00), the entry "60%" shall be substituted;

(ii) in sub-heading Nos. 7901.11, 7901.12, 7901.20 and 7902.00, for the entry in column (4) occurring against each of them, the entry "50%" shall be substituted;

(78) in Chapter 80,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8001.10, 8001.20 and 8002.00), the entry "50%" shall be substituted;

(ii) in sub-heading Nos. 8001.10, 8001.20, and 8002.00, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(79) in Chapter 81,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8101.10, 8101.91, 8102.10, 8102.91, 8103.10, 8104.11, 8104.19, 8104.20, 8105.10, 8106.00, 8107.10, 8108.10, 8109.10, 8110.00, 8111.00, 8112.11, 8112.20, 8112.30, 8112.40 and 8112.91), the entry "50%" shall be substituted;

(ii) in sub-heading Nos. 8101.10, 8101.91, 8102.10, 8102.91, 8103.10, 8104.11, 8104.19, 8104.20, 8105.10, 8106.00, 8107.10, 8108.10, 8109.10, 8110.00, 8111.00, 8112.11, 8112.20, 8112.30, 8112.40 and 8112.91, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(80) in Chapter 82,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8212.10, 8212.20, 8212.90, 8213.00, 8214.10, 8214.20, 8214.90, 8215.10, 8215.20, 8215.91 and 8215.99), the entry "35%" shall be substituted;

(ii) in sub-heading Nos. 8212.10, 8212.20, 8212.90, 8213.00, 8214.10, 8214.20, 8214.90, 8215.10, 8215.20, 8215.91 and 8215.99, for the entry in column (4) occurring against each of them, the entry "65%" shall be substituted;

(81) in Chapter 83, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(82) in Chapter 84,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8442.50, 8446.20, 8448.31, 8448.32, 8448.33, 8448.39, 8448.41, 8448.42, 8448.49, 8482.10, 8482.20, 8482.30, 8482.40, 8482.50, 8482.80, 8482.91 and 8482.99), the entry "65%" shall be substituted;

(ii) in sub-heading Nos. 8482.10, 8482.20, 8482.30, 8482.40, 8482.50 and 8482.80, for the entry in column (4) occurring against each of them, the entry "65% *plus* Rs. 250 per bearing" shall be substituted;

(iii) in sub-heading Nos. 8482.91 and 8482.99, for the entry in column (4) occurring against each of them, the entry "65% *plus* Rs. 250 per piece" shall be substituted;

(83) in Chapter 85, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8514.40 and 8514.90), the entry "65%" shall be substituted;

(84) in Chapter 86,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8601.10, 8601.20, 8602.10, 8602.90, and 8608.00), the entry "65%" shall be substituted;

(ii) in sub-heading Nos. 8608.00, for the entry in column (4), the entry "60%" shall be substituted;

(85) in Chapter 87, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 8710.00), the entry "65%" shall be substituted;

(86) in Chapter 88, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(87) in Chapter 89,—

(i) NOTE 2 shall be omitted;

(ii) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 8908.00), the entry "65%" shall be substituted;

(iii) in sub-heading No. 8908.00, for the entry in column (4), the entry "15%" shall be substituted;

(88) in Chapter 90,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. [except sub-heading Nos. 9021.11, 9021.19, 9021.21, 9021.29, 9021.30, 9021.40, 9021.50, 9021.90, 9023.00 and sub-heading Nos. specified against sub-items *(ii)* and *(iii)* of this item], the entry "65%" shall be substituted;

(ii) in sub-heading Nos. 9018.11, 9018.19, 9018.20, 9018.31, 9018.32, 9018.39, 9018.41, 9018.49, 9018.50, 9018.90, 9019.10, 9019.20, 9020.00, 9022.11 and 9022.21, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(iii) in sub-heading Nos. 9011.10, 9011.20, 9011.80, 9012.10, 9014.10, 9014.20, 9014.80, 9015.10, 9015.20, 9015.30, 9015.40, 9015.80, 9017.10, 9017.20, 9017.30, 9017.80, 9024.10, 9024.80, 9025.11, 9025.19, 9025.20, 9025.80, 9026.10, 9026.20, 9026.80, 9027.10, 9027.20, 9027.30, 9027.40, 9027.50, 9027.80, 9028.10, 9028.20, 9028.30, 9029.10, 9029.20, 9030.10 9030.20, 9030.31, 9030.39, 9030.40, 9030.81, 9030.89, 9031.10, 9031.20, 9031.30, 9031.40, 9031.80, 9032.10, 9032.20, 9032.81 and 9032.89, for the entry in column (4) occurring against each of them, the entry "60%" shall be substituted;

(89) in Chapter 91, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(90) in Chapter 92, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(91) in Chapter 93, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(92) in Chapter 94, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(93) in Chapter 95, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(94) in Chapter 96, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(95) in Chapter 97, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 9704.00 and 9705.00), the entry "65%" shall be substituted;

(96) in Chapter 98,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 9803.00), the entry "65%" shall be substituted;

(ii) in sub-heading No. 9803.00, for the entry in column (4), the entry "200%" shall be substituted.

THE THIRD SCHEDULE

[See section 62*(a)]*

In the Schedule to the Central Excise Tariff Act,—

(1) in Chapter 15, in sub-heading Nos. 1505.00 and 1508.10, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(2) in Chapter 17,—

(a) in sub-heading Nos. 1702.19 and 1702.21, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(b) in sub-heading No. 1703.10, for the entry in column (4), the entry "20%" shall be substituted;

(3) in Chapter 19, in sub-heading Nos. 1902.10 1903.10 and 1904.10, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(4) in Chapter 21,—

(a) in sub-heading Nos. 2102.10 and 2102.90, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(b) in sub-heading Nos. 2106.11, 2106.19 and 2106.90, for the entry in column (4) occurring against each of them, the entry "50%" shall be substituted;

(5) in Chapter 22,—

(a) in sub-heading Nos. 2201.11, 2201.12, 2201.19, 2202.11, 2202.12, 2202.13, 2202.14 and 2202.19, for the entry in column (4) occurring against each of them, the entry "50%" shall be substituted;

(b) in sub-heading No. 2201.90, for the entry in column (4), the entry "10%" shall be substituted;

(c) in sub-heading No. 2204.00, for the entry in column (4), the entry "20%" shall be substituted;

(6) in Chapter 24,—

(a) in sub-heading Nos. 2403.11, 2403.12, 2403.21 and 2403.22, for the entry in column (4) occurring against each of them, the entry "Rs 1,000 per thousand" shall be substituted;

(b) in sub-heading Nos. 2404.41, 2404.49, 2404.50 and 2404.60, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(7) in Chapter 25,—

(a) in heading No. 25.02, in column (3), for the entry "Portland cement", the entry "Portland cement (including ordinary Portland cement, Portland pozzolana cement and Portland slag cement):" shall be substituted;

(b) in sub-heading No. 2502.10, for the entry in column (4), the entry "Rs. 250 per tonne" shall be substituted;

(c) in sub-heading Nos. 2504.21 and 2504.31, for the entry in column (4) occurring against each of them, the entry "Rs. 20 per square metre" shall be substituted;

(8) in Chapter 27,—

(a) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2705.00, 2706.00, 2707.10, 2707.20, 2707.30, 2707.40, 2707.50, 2707.60, 2707.90, 2710.11, 2710.12, 2710.13 and 2710.19), the entry "10%" shall be substituted;

(b) in sub-heading Nos. 2707.10, 2707.20, 2707.30, 2707.40, 2707.50, 2707.60, 2707.90, 2710.11, 2710.12, 2710.13 and 2710.19, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(9) in Chapter 28, for the entry in column (4) occurring against all the sub-heading Nos., the entry "20%" shall be substituted;

(10) in Chapter 29, for the entry in column (4) occurring against all the sub-heading Nos., the entry "20%" shall be substituted;

(11) in Chapter 31, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 3101.00), the entry "20%" shall be substituted;

(12) in Chapter 32,—

(a) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3205.00, 3206.10, 3208.20, 3208.30, 3208.90, 3209.10, 3209.20, 3209.90 and 3212.90), the entry "20%" shall be substituted;

(b) in sub-heading Nos. 3208.10, 3208.20, 3208.30, 3208.90, 3209.10, 3209.20 and 3209.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(13) in Chapter 33,—

(a) in sub-heading Nos. 3301.00, 3302.10 3302.90, 3303.00, 3306.00 and 3307.49, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(b) in sub-heading Nos. 3304.00, 3305.90 3307.10, 3307.20, 3307.30 and 3307.90, for the entry in column (4) occurring against each of them, the entry "50%" shall be substituted;

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(14) in Chapter 34,—

(a) after NOTE 5, the following NOTE shall be inserted, namely:—

'6. In relation to products of sub-heading No. 3402.90, packing or repacking into smaller packs, including packing or repacking of bulk packs to retail packs or adoption of any other treatment to render the product marketable to the consumer shall amount to "manufacture".';

(b) in sub-heading Nos. 3401.10 and 3403.00, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(c) in sub-heading No. 3402.90, for the entry in column (4), the entry "30%" shall be substituted;

(15) in Chapter 35, in sub-heading Nos. 3505.10 and 3506.00, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(16) in Chapter 36, in sub-heading Nos. 3602.00, 3604.10, 3604.90 and 3606.00, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(17) in Chapter 37,—

(a) after NOTE 2, the following NOTE shall be inserted, namely:—

'3. In relation to products of heading Nos. 37.01, 37.02 and 37.03, the process of cutting, slitting, perforation or any one or more of these processes shall amount to "manufacture".';

(b) in sub-heading Nos. 3701.10, 3701.20, 3701.90, 3702.10, 3702.20, 3702.90, 3703.10, 3703.20, 3704.10, 3704.20 and 3707.00, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(c) in sub-heading Nos. 3706.31, 3706.32, 3706.39, 3706.41, 3706.42, 3706.43, 3706.44, 3706.91 and 3706.92, for the entry in column (4) occurring against each of them, the entry *"Nil"* shall be substituted;

(18) in Chapter 38, for the entry in column (4) occurring against all the sub-heading Nos., the entry "20%" shall be substituted;

(19) in Chapter 39,—

(a) in NOTE 11, for clause *(a)*, the following clause shall be substituted, namely:—

"(a) Reservoirs, tanks (including septic tanks), vats and similar containers, of a capacity exceeding 300L;",

(b) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3922.10, 3922.20, 3922.90, 3924.19, 3924.90, 3925.10, 3925.20, 3925.30 and 3925.99), the entry "30%" shall be substituted;

(20) in Chapter 40,—

(a) in sub-heading Nos. 4006.90, 4008.29, 4009.10, 4009.91, 4009.99, 4016.19, 4016.91, 4016.99, 4017.10 and 4017.20, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(b) in sub-heading Nos. 4008.11, 4008.19 and 4016.11, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(21) in Chapter 44,—

(a) in sub-heading Nos. 4401.00, 4403.00 and 4410.90, for the entry in column (4) occurring against each of them, the entry *"Nil"* shall be substituted;

(b) in sub-heading Nos. 4402.00, 4405.00, 4408.10, 4408.20, 4408.30, 4408.40, 4408.90, 4409.00 and 4410.10, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(22) in Chapter 47, in sub-heading No. 4702.00, for the entry in column (4), the entry "20%" shall be substituted;

(23) in Chapter 48,—

(a) in sub-heading Nos. 4801.10 and 4801.90, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(b) in sub-heading Nos. 4802.20, 4802.91, 4802.99, 4803.00, 4804.19, 4804.29, 4804.30, 4805.11, 4805.19, 4805.20, 4805.30, 4805.90, 4806.10, 4806.20, 4806.90, 4807.10, 4807.91, 4807.92, 4807.99, 4808.10, 4808.90, 4809.10, 4809.20, 4809.90, 4810.10, 4810.20, 4810.90, 4811.10, 4811.20, 4811.40, 4811.90, 4812.00, 4813.00, 4814.00, 4816.00, 4818.00, 4819.12, 4819.19, 4819.90, 4822.00, 4823.11, 4823.12, 4823.14 and 4823.19, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(c) in sub-heading Nos. 4811.30 and 4823.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(d) in sub-heading Nos. 4817.00, 4820.00 and 4821.00, for the entry in column (4) occurring against each of them, the entry *"Nil"* shall be substituted;

(24) in Chapter 50, in sub-heading No. 5001.20, for the entry in column (4), the entry "15%" shall be substituted;

(25) in Chapter 51,—

(a) in sub-heading Nos. 5101.00, 5102.11, 5102.12, 5107.24, 5107.42 and 5107.92, for the entry in column (4) occurring against each of them, the entry *"Nil"* shall be substituted;

(b) in sub-heading Nos. 5103.10, 5103.21, 5103.29 and 5107.99, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(c) in sub-heading Nos. 5107.39, 5107.41 and 5107.91, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(26) in Chapter 52,—

(a) in sub-heading No. 5203.00, for the entry in column (4), the entry "10%" shall be substituted;

(b) in sub-heading Nos. 5204.21 and 5204.29, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(27) in Chapter 53,—

(a) in sub-heading Nos. 5301.10, and 5303.10, for the entry in column (4) occurring against each of them, the entry "*Nil*" shall be substituted;

(b) in sub-heading Nos. 5301.31, 5302.20, 5303.31 and 5306.29, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(c) in sub-heading Nos. 5301.32, 5303.32 and 5303.39, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(28) in Chapter 54,—

(a) in sub-heading Nos. 5402.00 and 5403.00, for the entry in column (4) occurring against each of them, the entry "70%" shall be substituted;

(b) in sub-heading Nos. 5404.00, 5405.00, 5406.11, 5406.12, 5406.19, 5406.90 and 5407.00, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(29) in Chapter 55, in sub-heading Nos. 5501.10, 5501.20, 5501.30, 5501.90, 5502.00, 5504.10, 5504.21, 5504.22, 5504.29, 5504.31, 5504.32, 5504.39, 5504.90, 5505.00, 5506.21 and 5506.29, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(30) in Chapter 56,—

(a) in sub-heading No. 5605.10, for the entry in column (4), the entry "70%" shall be substituted;

(b) in sub-heading No. 5607.19, for the entry in column (4), the entry "10%" shall be substituted;

(31) in Chapter 57,—

(a) in sub-heading Nos. 5701.11, 5701.12 and 5702.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(b) in sub-heading No. 5702.20, for the entry in column (4), the entry "10%" shall be substituted;

(32) in Chapter 58,—

(a) in sub-heading Nos. 5803.00, 5805.11, 5805.12, 5805.13, 5805.14 and 5805.19, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(b) in sub-heading No. 5805.90, for the entry in column (4), the entry "*Nil*" shall be substituted;

(33) in Chapter 59,—

(a) in sub-heading Nos. 5902.10, 5902.20, 5902.30, 5906.11, 5906.12 and 5906.19, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(b) in sub-heading Nos. 5903.11, 5903.21 and 5903.91, for the entry in column (4) occurring against each of them, the entry "5%" shall be substituted;

(c) in sub-heading Nos. 5903.19, 5903.29, 5903.99, 5904.10, 5904.90, 5906.90 and 5908.00, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(34) in Chapter 64, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 6402.00), the entry "15%" shall be substituted;

(35) in Chapter 65, in sub-heading No. 6501.10, for the entry in column (4), the entry "10%" shall be substituted;

(36) in Chapter 66, in sub-heading No. 6601.00, for the entry in column (4), the entry "10%" shall be substituted;

(37) in Chapter 68,—

(a) in sub-heading Nos. 6801.10, 6801.90, 6802.00, 6803.00, 6805.10, 6806.10 and 6806.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(b) in sub-heading No. 6807.00, for the entry in column (4), the entry "30%" shall be substituted;

(38) in Chapter 69,—

(a) in sub-heading No. 6901.00, in the entry in column (3), for the word "sheets", the word "sheaths" shall be substituted;

(b) in sub-heading Nos. 6905.00, 6906.90, 6908.10, 6909.10, 6909.20, 6909.30, 6909.90 and 6911.00, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

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(c) in sub-heading No. 6906.10, for the entry in column (4), the entry "40%" shall be substituted;

(39) in Chapter 70,—

(a) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7007.90, 7009.00 and 7011.10), the entry "20%" shall be substituted;

(b) in sub-heading No. 7007.90, for the entry in column (4), the entry "30%" shall be substituted;

(c) for the entry in column (3) against heading No. 70.11, the entry "Clock or watch glasses and similar glasses, glasses for non-corrective or corrective spectacles, curved, bent, hollowed or the like, not optically worked; hollow glass spheres and their segments, for the manufacture of such glasses" shall be substituted;

(d) in sub-heading No. 7011.10, for the entry in column (3), the following entry shall be substituted, namely:—

"-Glasses for corrective spectacles";

(40) in Chapter 71, for NOTE 4, the following NOTE shall be substituted, namely:—

"4. For the purposes of this Chapter, any alloy (including a sintered mixture and an inter metallic compound) containing precious metal is to be treated as an alloy of precious metal if any one precious metal constitutes as much as 2%, by weight, of the alloy. Alloys of precious metal are to be classified according to the following rules:

(a) An alloy containing 2% or more, by weight, of platinum is to be treated as an alloy of platinum;

(b) An alloy containing 2% or more, by weight, of gold but no platinum, or less than 2%, by weight, of platinum, is to be treated as an alloy of gold;

(c) Other alloys containing 2% or more, by weight, of silver are to be treated as alloys of silver.".

(41) in Chapter 72,—

(a) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 7230.00), the entry "15%" shall be substituted.

(b) heading No. 72.30 and the entries relating thereto shall be omitted;

(42) in Chapter 73,—

(a) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7302.90, 7307.00, 7308.10, 7308.20, 7308.30, 7308.40, 7308.90, 7309.00, 7312.10, 7312.90, 7313.00, 7314.00, 7315.00, 7316.00, 7317.00, 7318.10, 7318.21, 7318.29, 7318.90, 7319.00, 7320.00, 7321.90, 7322.00, 7323.00, 7324.00, 7326.11, 7326.19 7326.20, 7326.90 and 7327.00), the entry "15%" shall be substituted;

(b) heading No. 73.27 and the entries relating thereto shall be omitted;

(43) in Chapter 76, for the entry in column (4) occurring against all the sub-heading Nos., the entry "20%" shall be substituted;

(44) in Chapter 83,—

(a) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8303.00, 8306.00, 8307.00, 8310.00, 8311.00 and 8312.00), the entry "20%" shall be substituted;

(b) in sub-heading No. 8303.00, for the entry in column (4), the entry "30%" shall be substituted;

(45) in Chapter 84,—

(a) in sub-heading Nos. 8414.10, 8414.91, 8415.00, 8418.00, 8419.00, 8476.11, 8476.91, 8481.10 and 8481.91, for the entry in column (4) occurring against each of them, the entry "60%" shall be substituted;

(b) in sub-heading Nos. 8414.20 and 8469.00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

(c) in sub-heading No. 8485.90, for the entry in column (4), the entry "25%" shall be substituted;

(46) in Chapter 85,—

(a) in sub-heading Nos. 8506.00, 8523.11, 8523.12, 8523.13, 8523.14, 8523.19, 8523.20, 8523.90, 8524.21, 8524.22, 8524.23, 8524.24, 8544.00 and 8546.00, for the entry in column (4) occuring against each of them, the entry "30%" shall be substituted;

(b) in sub-heading Nos. 8518.00, 8519.00, 8520.00, 8521.00, 8522.00, 8525.00, 8527.00, 8528.00, 8529.00, 8532.00 and 8540.11, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(c) in sub-heading No. 8536.10, for the entry in column (4), the entry "60%" shall be substituted;

(d) in sub-heading No. 8539.00, for the entry in column (4), the entry "15%" shall be substituted;

(e) in sub-heading No. 8548.00, for the entry in column (4), the entry "25%" shall be substituted;

(47) in Chapter 87,—

(a) in sub-heading Nos. 8702.00, 8703.00, 8704.00, 8706.20, 8706.30 and 8706.40, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(b) in sub-heading Nos. 8705.00, 8706.50, 8707.00, 8709.00, 8710.00 and 8716.00, for the entry in column (4) occurring against each of them, the entry "15%" shall be substituted;

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(c) in sub-heading No. 8708.00, for the entry in column (4), the entry "20%" shall be substituted;

(48) in Chapter 89,—

(a) Note 2 shall be omitted;

(b) heading No. 89.08 and the entries relating thereto shall be omitted;

(49) in chapter 90,—

(a) in sub-heading Nos. 9006.00, 9007.00, 9008.00 and 9009.00, for the entry in column (4) occurring against each of them, the entry "20%" shall be substitued;

(b) in sub-heading Nos. 9011.00, 9012.00, 9013.00, 9014.00, 9015.00, 9016.10, 9016.90, 9017.00, 9018.00, 9019.00, 9020.00, 9021.00, 9022.00, 9023.00, 9024.00, 9025.00, 9026.00, 9027.00, 9028.00, 9029.00, 9030.00, 9031.00, 9032.12, 9032.80, 9032.99 and 9033.00, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(c) in sub-heading Nos. 9032.11 and 9032.91, for the entry in column (4) occurring against each of them, the entry "60%" shall be substituted;

(50) in Chapter 91, for the entry in column (4) occurring against all the sub-heading Nos., the entry "10%" shall be substituted;

(51) in Chapter 92, for the entry in column (4) occurring against all the sub-heading Nos., the entry "10%" shall be substituted;

(52) in Chapter 94,—

(a) in sub-heading Nos. 9401.00, 9402.00, 9403.00 and 9405.00, for the entry in column (4) occuring against each of them, the entry "20%" shall be substituted;

(b) in sub-heading No. 9404.00, for the entry in column (4), the entry "30%" shall be substituted;

(53) in Chapter 95, in sub-heading No. 9504.00, for the entry in column (4), the entry "15%" shall be substituted;

(54) in Chapter 96,—

(a) in sub-heading Nos. 9604.00, 9606.00, 9608.00, 9611.00, 9612.00, 9613.10 and 9613.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(b) in sub-heading No. 9605.10, for the entry in column (4), the entry "50%" shall be substituted.

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THE FOURTH SCHEDULE
[*See* section 62(*b*)]

Heading No.	Sub-heading No.	Description of goods	Rate
(1)	(2)	(3)	(4)
In the Schedule to the Central Excise Tariff Act, in Chapter 40,—			
(a) for heading No. 40.11 and the entries relating thereto, the following shall be substituted, namely:—			
"40.11		PNEUMATIC TYRES, OF RUBBER	
	4011.10	-Of a kind used on bicycles, cycle-rickshaws and three-wheeled powered cycle rickshaws	Nil
	4011.20	-Of a kind used on two-wheeled motor vehicles or as rear tyres on tractors, including agricultural tractors	25%
	4011.90	-Others	45%";
(b) in sub-heading No. 4012.19, for the entry in column (4), the entry "45%" shall be substituted;			
(c) for heading No. 40.13 and the entries relating thereto, the following shall be substituted, namely:—			
"40.13		INNER TUBES, OF RUBBER, FOR TYRES	
	4013.10	-Of a kind used in tyres of sub-heading No. 4011.10	Nil
	4013.20	-Of a kind used in tyres of sub-heading No. 4011.20	25%
	4013.90	-Others	45%".

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THE FIFTH SCHEDULE
[See section 63(b)]

In the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act,—

(1) in sub-heading Nos. 2403.11 and 2403.21, for the entry in column (4) occurring against each of them, the entry "Rs. 350 per thousand" shall be substituted;

(2) in sub-heading Nos. 2404.49 and 2404.60, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(3) in sub-heading Nos. 5107.24, 5107.32, 5107.42 and 5107.92, for the entry in column (4) occurring against each of them, the entry *"Nil"* shall be substituted;

(4) in sub-heading Nos. 5107.39, 5107.41 and 5107.49, for the entry in column (4) occurring against each of them, the entry "5%" shall be substituted;

(5) in sub-heading Nos. 5206.00, 5207.00, 5208.00, 5209.00, 5210.00 and 5211.00, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(6) in sub-heading Nos. 5409.00, 5410.00, 5411.00 and 5412.00, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(7) in sub-heading Nos. 5508.00, 5509.00, 5510.00, 5511.00 and 5512.00, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(8) in sub-heading Nos. 5801.30, 5802.14 and 5804.12, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(9) in sub-heading Nos. 5805.11, 5805.12, 5805.13 and 5805.14, for the entry in column (4) occurring against each of them, the entry *"Nil"* shall be substituted;

(10) in sub-heading No. 5901.20, for the entry in column (4), the entry "20%" shall be substituted;

(11) in sub-heading Nos. 5902.10, 5902.20, 5902.30, 5903.19, 5903.29, 5906.11 and 5906.12, for the entry in column (4) occurring against each of them, the entry "5%" shall be substituted;

(12) in sub-heading No. 6001.12, for the entry in column (4), the entry "20%" shall be substituted.

Sd/-

K.L. MOHANPURIA,
Secy. to the Govt. of India.

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

Sd/-
Kum. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalya, Gandhinagar, 24th October, 1994.

No. RP/84/94/Act-28/94/71/E.—The following Act of Parliament is re-published for general infiormation :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 26th April, 1994.

The following Act of Parliament received the assent of the Presideint on the 26th April, 1994, Vaishakh 6, 1915 (Saka)and is hereby published for general information ;

THE RAILWAYS (AMENDMENT) ACT 1994

(Act 28 of 1994) **(26th April, 1994)**

AN ACT

to amend the Railways Act, 1989 and the Railways Claims tribunal Act, 1987.

BE it enacted by Parliamet in the Forty-fifth Year of the Republic Of India as follows:—

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CHAPTER—I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be Called the Railways (Amendment) Act, 1994.

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

CHAPTER—II

AMENDMENTS TO THE RAILWAYS ACT, 1989.

Amendment of section 123.

2. In section 123 of the Railways Act, 1989 (hereafter in this Chapter referred to as the principal Act), after clause (*b*), the following clause shall be inserted, namely:— 24 of 1989.

(*c*) "untoward incident" means —

(*1*) (*i*) the commission of a terrorist act within the meaning of sub-section(*1*) of section 3 of the Terrorist and Disruptive activities (Prevention) Act, 1987;or 28 of 1987.

(*ii*) the making of a violent attack or the commission of robbery or decoity;or

(*iii*) the indulging in rioting, shoot-out or arson,

by any person in or on any train carrying passengers, or in a waiting hall, cloak room or reservation or booking office or on any platform or in any other place within the precincts of a railway station; or

(*2*) the accidental falling of any passenger from a train carrying passengers'

Insertion of new section 124A.

3. After section 124 of the principal Act, the following section shall be inserted, namely:—

Compensation on account of untoward incidents.

'124A. When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act neglect or default on the part of the railway administration such as would intitle a passenger who has been injured or the dependent of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall not withstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasationed by the death of, or injury to, a passenger as a result of such untoward incident:

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to —

(a) suicide or attempted suicide by him ;

(*b*) self inflicted injury ;

(*c*) his own criminal act ;

(*d*) any act committed by him in a state of intoxication or insanity ;

(*e*) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.

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Explanation.—For the purposes of this section, "passenger" includes—

(*i*) a railway servant on duty; and

(*ii*) a person who has purchased a valid ticket for travelling, by a train carrying passengers on any date or a valid platform ticket and becomes a victim of an untoward incident."

Amendment of section 125.

4. In section 125 of the principal Act, in sub-secion (*1*),—

(*a*) in the opening portion, after the word and figures "section 124", the words, figures and "letter of" section 124A" shall be inserted;

(*b*) in cluase (*d*), after the word "accident", the words "or the untoward incident" shall be inserted.

Amendment of section 126.

5. In section 126 of the principal Act, in sub-section (*2*), after the word and figures "section 124", the words, figures and letter "or section 124A" shall be inserted.

Amendment of section 128.

6. In section 128 of the principal Act, in sub-secion (*1*), after the word and figures "section 124", the words, figures and letter "or section 124A" shall be inserted.

CHAPTER III

AMENDMENTS TO THE RAILWAY CLAIMS TRIBUNAL ACT, 1987.

Amendment of long title.

54 of 1987

7. In the long title to the Railway Claims Tribunal Act, 1987 (hereafter in this Chapter referred to as the principal Act), after the words "railway accidents", the words "or untoward incidents" shall be inserted.

Amendment of section 2.

8. In section 2 of the principal Act, clause (*n*) shall be re-lettered as clause (*o*), and before clause (*o*) asso re-lettered, the following clause shall be inserted namely:—

24 of 1989

(*n*) " untoward incident" shall have the meaning assigned to it in clause (*c*) of section 123 of th Railways Act, 1989;'.

Amendment of section 13.

9. In section 13 of the principal Act,—

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

"(*1A*) The claims Tribunal shall also exercise, on and from the date of commencement of the provisions of section 124A of the Railways Act, 1989, all such jurisdiction, powers and authority as were exercisable immediately before that date by any civil court in respect of claims for compensation now payable by the railway administration under section 124A of the said Act or the rules made thereunder.";

24 of 1989

24 of 1989

(*b*) in sub-section (*2*), for the words "Railways Act" , the words and figures "Railways Act, 1989" shall be substituted.

Amendment of section 15.

10. In section 15 of the principal Act, for the word, brackets and figure "sub-section (*1*)", the words, brackets, figure and letter "sub-sections (*1*) and (*1A*)" shall be substituted.

Amendment of section 16.

11. In section 16 of the principal Act,—

(*a*) in sub-section (*1*), after the word, brackets and figure "sub-section (*1*)", the words, brackets, figure and letter "or sub-section (*1A*)" shall be inserted;

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(*b*) in sub-section (*2*), in the proviso, after the word, bracket and figure "sub-secton (*1*)", the words, brackets, figure and letter "or, as the case may be, sub-section (*1A*)" shall be inserted.

Amendment of section 17.

12. In section 17 of the principal Act, in sub-section (*1*), in clause (*b*), after the word, brackets and figure "sub-secton (*1*)", the words, brackets, figure and letter "or, as the case may be, sub-section (*1A*)" shall be inserted.

Amendment of section 24.

13. In section 24 of the principal Act, in sub-section (*1*),–

(*a*) after the words "appointed day", at both the places where they occur, the words, brackets, figures and letter "or, as the case may be, the date of commencement of the provisions of sub-section (*1A*) of section 13" shall be inserted;

(*b*) for the words "that day", the words "that day or, as the case may be, date" shall be substituted.

Sd/-
K. L. MOHANPURIA,
Secretary to the Govt. of India.

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

Sd/-
Kum. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 24th October, 1994.

No. RP/90/94/34/94/69/E.–The following Act of Parliament is re-published for general information.

GOVERNMENT OF INDIA,

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS,

(Legislative Department)

New Delhi, the 24th May, 1994.

The following Act of Parliament received the assent of the President on the 24th May, 1994/Jayestha 3,1915 (Saka) and is hereby published for general information.

THE PAYMENT OF GRATUITY (AMENDMENT) ACT, 1994.

[Act No. 34 of 1994] **[24th May, 1994]**

AN ACT

further to amend the Payment of Gratuity Act, 1972.

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

1. This Act may be called the Payment of Gratuity (Amendment) Act, 1994. Short title.

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39 of 1972.

2. In section 2 of the Payment of Gratuity Act, 1972 (hereinafter referred to as the principal Act), in clause (*e*),– Amendment of section 2.

(*a*) the words, "not exceeding two thousand and five hundred rupees per mensem, or such higher amount as the Central Government may, having regard to the general level of wages, by notification, specify," shall be omitted;

(*b*) *Explanation* shall be omitted.

3. In section 4 of the principal Act.–

(*a*) in sub-section (*3*), for the words "fifty thousand", the words "one lakh" shall be substituted; Amendment of section 4.

(*b*) sub-section (*7*) shall be omitted.

Amendment of section 11.

4. In section 11 of the principal Act, in sub-section (*2*), for the words "Presidency Magistrate or a Magistrate of the first class", the words "Metropolitan Magistrate or a Judicial Magistrate of the first class" shall be substituted.

Sd/-

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

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

Sd/-

Kum. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,
Sachivalaya, Gandhinagar,

24th October, 1994.

No. RP/92/94/36/94/73/E:- The following Act of Parliament is re-published for general information:

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS,
(Legislative Department),
New Delhi, the 6th June, 1994.

The following Act of Parliament received the assent of the President on the 3rd June, 1994 /Jayestha 13, 1915 (Saka) and is hereby published for general information:

THE PRESS COUNCIL(AMENDMENT) ACT, 1994.

(Act 36 of 1994)

(3rd June 1994)

AN ACT

further to amend the Press Council Act, 1978.

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

1. This Act may be called the Press Council (Amendment) Act, 1994. Short title.

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Amend-ment of section 5 of Act 37 OF 1978.

2. In the Press Council Act, 1978, in section 5, in sub-section (*3*), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

'*Explanation.*—For the purposes of clause (*b*), a "newspaper" shall be deemed to be categorised as big, medium or small newspaper on the basis of its circulation per issue, as the Central Government may, by notification in the Official Gazette, notify from time to time.'.

Sd/-
K.L. MOHANPURIA
Secretary to the Govt.of India.

By order and in the name of the Governor of Gujarat,
Sd/-

Kum. H.K. Jhaveri
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, Dated 24th October, 1994.

No. RP/93-94/37/94/70/E.-The following Act of Parliament is re-published for general information :-

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)
New Delhi, the 6th June, 1994.

The following Act of Parliament received the assent of the President on the 3rd June, 1994/Jayestha 13, 1915 (Saka) and is hereby published for general information :

THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) AMENDMENT ACT, 1994.

(Act 37 of 1994) **(3rd June, 1994)**

AN ACT

further to amend the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

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

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Banking Companies (Acquisition and Transfer of Undertakings) Amendment Act, 1994. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the *Official Gazette*, appoint; and different dates may be appointed for different provisions of this Act.

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CHAPTER II

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1970

Amendment of section 2.

2. In section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (hereafter in this Chapter referred to as the Bank Nationalisation Act), 5 of 1970.—

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

'(*fa*) "prescribed" means prescribed by regulations made under this Act;';

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

"(*i*) words and expressions used herein and not defined either in this Act or in the Banking Regulation Act, 1949 but defined in the Companies Act, 1956 shall have the meanings respectively assigned to them in the Companies Act, 1956.". 10 of 1949 1 of 1956.

Substitution of new heading for heading of Chapter II.

3. In Chapter II of the Bank Nationalisation Act, for the heading "TRANSFER OF THE UNDERTAKINGS OF EXISTING BANKS", the following heading shall be substituted, namely:—

"TRANSFER OF THE UNDERTAKINGS OF EXISTING BANKS AND SHARE CAPITALS OF THE CORRESPONDING NEW BANKS".

Amendment of section 3.

4. In section 3 of the Bank Nationalisation Act, for sub-sections (*2A*) and (*3*), the following sub-sections shall be substituted, namely:—

'(*2A*) Subject to the provisions of this Act, the authorised capital of every corresponding new bank shall be one thousand five hundred crores of rupees divided into one hundred fifty crores fully paid-up shares of ten rupees each:

Provided that the Central Government may, after consultation with the Reserve Bank and by notification in the Official Gazette, increase or reduce the authorised capital as it thinks fit, so however that after such increase or reduction, the authorised capital shall not exceed three thousand crores or be less than one thousand five hundred crores, of rupees.

(*2B*) Notwithstanding anything contained in sub-section (*2*), the paid-up capital of every corresponding new bank constituted under sub-section (*1*) may from time to time be increased by—

(*a*) such amounts as the Board of Directors of the corresponding new bank may, after consultation with the Reserve Bank and with the previous sanction of the Central Government, transfer from the reserve fund established by such bank to such paid-up capital;

(*b*) such amounts as the Central Government may, after consultation with the Reserve Bank, contribute to such paid-up capital;

(*c*) such amounts as the Board of Directors of the corresponding new bank may, after consultation with the Reserve Bank and with the previous sanction of the Central Government, raise by public issue of shares in such manner as may be prescribed, so, however that the Central Government shall, at all times, hold not less than fifty-one per cent. of the paid-up capital of each corresponding new bank.

(*2C*) The entire paid-up capital of a corresponding new bank, except the paid-up capital raised by public issue under clause (*c*) of sub-section (*2B*), shall stand vested in, and allotted to, the Central Government.

(*2D*) The shares of every corresponding new bank not held by the Central Government shall be freely transferable:

Provided that no individual or company resident outside India or any company incorporated under any law not in force in India or any branch of such company, whether resident outside India or not, shall at any time hold or acquire by transfer or otherwise shares of the corresponding new bank so that such investment in aggregate exceed the percentage, not being more than twenty per cent., of the paid-up capital, as may be specified by the Central Government by notification in the Official Gazette.

Explanation.—For the purposes of this clause, "company" means any body corporate and includes a firm or other association of individuals.

(*2E*) No shareholder of the corresponding new bank, other than the Central Government, shall be entitled to exercise voting rights in respect of any shares held by him in excess of one per cent. of the total voting rights of all the shareholders of the corresponding new bank.

(*2F*) Every corresponding new bank shall keep at its head office a register, in one or more books, of the shareholders (in this Act referred to as the register) and shall enter therein the following particulars:—

(*i*) the names, addresses and occupations, if any, of the shareholders and a statement of the shares held by each shareholder, distinguishing each share by its denoting number;

(*ii*) the date on which each person is so entered as a shareholder;

(*iii*) the date on which any person ceases to be a shareholder; and

(*iv*) such other particulars as may be prescribed.

(*2G*) Notwithstanding anything contained in sub-section (*2F*), it shall be lawful for every corresponding new bank to keep the register in computer floppies or diskettes subject to such safeguards as may be prescribed.

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(3) Notwithstanding anything contained in the Indian Evidence Act, 1872, a copy of, or extract from, the register, certified to be a true copy under the hand of an officer of the corresponding new bank authorised in this behalf by it, shall, in all legal proceedings, be admissible in evidence.'. 1 of 1872.

Insertion of new section 3A.

5. After section 3 of the Bank Nationalisation Act, the following section shall be inserted, namely:—

Trust not to be entered on the register.

"3A. Notwithstanding anything contained in sub-section (2F) of section 3, no notice of any trust, express, implied or constructive, shall be entered on the register, or be receivable, by the corresponding new bank.".

Amendment of section 9.

6. In section 9 of the Bank Nationalisation Act,—

(*i*) in sub-section (*2*), in clause (*a*), the words ", so however that the paid-up capital of any such bank shall not be in excess of rupees one thousand five hundred crores" shall be omitted;

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

'(*3*) Every Board of Directors of a corresponding new bank, constituted under any scheme made under sub-section (*1*), shall include—

(*a*) not more than two whole-time directors to be appointed by the Central Government after consultation with the Reserve Bank;

(*b*) one director who is an official of the Central Government to be nominated by the Central Government:

Provided that no such director shall be a director of any other corresponding new bank.

Explanation.—For the purposes of this clause, the expression "corresponding new bank" shall include a corresponding new bank within the meaning of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980; 40 of 1980.

(*c*) one director who is an officer of the Reserve Bank to be nominated by the Central Government on the recommendation of the Reserve Bank.

Explanation.—For the purpose of this clause, "an officer of the Reserve Bank" includes an officer of the Reserve Bank who is deputed by that Bank under section 54AA of the Reserve Bank of India Act, 1934 to any institution referred to therein; 2 of 1934.

(*d*) not more than two directors to be nominated by the Central Government from amongst the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992, the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and 15 of 1992.

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61 of 1981. Rural Development Act, 1981, public financial institutions as specified in sub-section (*1*), or notified from time to time under sub-section (*2*) of section 4A of the Companies Act, 1956 and other institutions established or constituted by or under any Central Act or incorporated under the Companies Act, 1956 and having not less than fifty-one per cent. of the paid-up share capital held or controlled by the Central Government;

1 of 1956.

(*e*) one director, from among such of the employees of the corresponding new bank who are workmen under clause (*s*) of section 2 of the Industrial Disputes Act, 1947, to be nominated by the Central Government in such manner as may be specified in a scheme made under this section;

14 of 1947.

(*f*) one director, from among the employees of the corresponding new bank who are not workmen under clause (*s*) of section 2 of the Industrial Disputes Act, 1947, to be nominated by the Central Government after consultation with the Reserve Bank;

14 of 1947.

(*g*) one director who has been a Chartered Accountant for not less than fifteen years to be nominated by the Central Government after consultation with the Reserve Bank;

(*h*) subject to the provisions of clause (*i*), not more than six directors to be nominated by the Central Government;

(*i*) where the capital issued under clause (*c*) of sub-section (*2B*) of section (*3*) is—

(*I*) not more than twenty per cent. of the total paid-up capital, not more than two directors,

(*II*) more than twenty per cent. but not more than forty per cent. of the total paid-up capital, not more than four directors,

(*III*) more than forty per cent. of the total paid-up capital, not more than six directors,

to be elected by the shareholders, other than the Central Government, from amongst themselves:

Provided that on the assumption of charge after election of any such directors under this clause, equal number of directors nominated under clause (*h*) shall retire in such manner as may be specified in the scheme.

(*3A*) The directors to be nominated under clause (*h*) or to be elected under clause (*i*) of sub-section (*3*) shall—

(*A*) have special knowledge or practical experience in respect of one or more of the following matters, namely:—

(*i*) agricultural and rural economy,

(*ii*) banking,

(*iii*) co-operation,

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(*iv*) economics,

(*v*) finance,

(*vi*) law,

(*vii*) small-scale industry,

(*viii*) any other matter the special knowledge of, and practical experience in, which would, in the opinion of the Reserve Bank, be useful to the corresponding new bank;

(*B*) represent the interests of depositors; or

(*C*) represent the interests of farmers, workers and artisans.

(*3B*) Where the Reserve Bank is of the opinion that any director of a corresponding new bank elected under clause (*i*) of sub-section (*3*) does not fulfil the requirements of sub-section (*3A*), it may, after giving to such director and the bank a reasonable opportunity of being heard, by order, remove such director and on such removal, the Board of Directors shall co-opt any other person fulfilling the requirements of sub-section (*3A*) as a director in place of the person so removed till a director is duly elected by the shareholders of the corresponding new bank in the next annual general meeting and the person so co-opted shall be deemed to have been duly elected by the shareholders of the corresponding new bank as a director.'.

Amendment of section 10.

7. In section 10 of the Bank Nationalisation Act,—

(*i*) in sub-section (*7*), for the words "shall transfer the balance of profits to the Central Government", the words "may, out of its net profits, declare a dividend and retain the surplus, if any" shall be substituted;

(*ii*) in sub-section (*7A*), after the words "the Central Government", the words "and to the Reserve Bank" shall be inserted.

Insertion of new section 10A.

8. After section 10 of the Bank Nationalisation Act, the following section shall be inserted, namely:—

Annual general meeting.

"10A. (*1*) A general meeting (in this Act referred to as an annual general meeting) of every corresponding new bank which has issued capital under clause (*c*) of sub-section (*2B*) of section 3 shall be held at the place of the head office of the bank in each year at such time as shall from time to time be specified by the Board of Directors:

Provided that such annual general meeting shall be held before the expiry of six weeks from the date on which the balance-sheet, together with the profit and loss account and auditor's report is, under sub-section (*7A*) of section 10, forwarded to the Central Government or to the Reserve Bank, whichever date is earlier.

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(2) The shareholders present at an annual general meeting shall be entitled to discuss the balance-sheet and the profit and loss account of the corresponding new bank made up to the previous 31st day of March, the report of the Board of Directors on the working and activities of the corresponding new bank for the period covered by the accounts and the auditor's report on the balance-sheet and accounts.".

Amendment of section 19.

9. In section 19 of the Bank Nationalisation Act, in sub-section (2), after clause (*b*), the following clauses shall be inserted, namely:—

"(*ba*) the nature of shares of the corresponding new bank, the manner in which and the conditions subject to which shares may be held and transferred and generally all matters relating to the rights and duties of shareholders;

(*bb*) the maintenance of register, and the particulars to be entered in the register in addition to those specified in sub-section (*2F*) of section 3, the safeguards to be observed in the maintenance of register on computer floppies or diskettes, inspection and closure of the register and all other matters connected therewith;

(*bc*) the manner in which general meetings shall be convened, the procedure to be followed thereat and the manner in which voting rights may be exercised;

(*bd*) the holding of meetings of shareholders and the business to be transacted thereat;

(*be*) the manner in which notices may be served on behalf of the corresponding new bank upon shareholders or other persons;

(*bf*) the manner in which the directors nominated under clause (*h*) of sub-section (3) of section 9 shall retire;".

CHAPTER III

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1980

Amendment of section 2.

10. In section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 [hereafter in this Chapter referred to as the Bank (Second) Nationalisation Act],— 40 of 1980.

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

'(*da*) "prescribed" means prescribed by regulations made under this Act;';

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

"(*f*) words and expressions used herein and not defined either in this Act or in the Banking Regulation Act, 1949 but defined in the Companies Act, 1956 shall have the meanings respectively assigned to them in the Companies Act, 1956.". 10 of 1949. 1 of 1956.

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Substitution of new heading for heading of Chapter II.

11. In Chapter II of the Bank (Second) Nationalisation Act, for the heading "TRANSFER OF THE UNDERTAKINGS OF EXISTING BANKS", the following heading shall be substituted, namely:—

"TRANSFER OF THE UNDERTAKINGS OF EXISTING BANKS AND SHARE CAPITALS OF THE CORRESPONDING NEW BANKS".

Amendment of section 3.

12. In section 3 of the Bank (Second) Nationalisation Act, for sub-sections (*2A*) and (*3*), the following sub-sections shall be substituted, namely:—

'(*2A*) Subject to the provisions of this Act, the authorised capital of every corresponding new bank shall be one thousand five hundred crores of rupees divided into one hundred and fifty crores fully paid-up shares of ten rupees each:

Provided that the Central Government may, after consultation with the Reserve Bank and by notification in the Official Gazette, increase or reduce the authorised capital as it thinks fit, so however that after such increase or reduction, the authorised capital shall not exceed three thousand crores or be less than one thousand five hundred crores, of rupees.

(*2B*) Notwithstanding anything contained in sub-section (*2*), the paid-up capital of every corresponding new bank constituted under sub-section (*1*) may from time to time be increased by—

(*a*) such amounts as the Board of Directors of the corresponding new bank may, after consultation with the Reserve Bank and with the previous sanction of the Central Government, transfer from the reserve fund established by such bank to such paid-up capital;

(*b*) such amounts as the Central Government may, after consultation with the Reserve Bank, contribute to such paid-up capital;

(*c*) such amounts as the Board of Directors of the corresponding new bank may, after consultation with the Reserve Bank and with the previous sanction of the Central Government, raise by public issue of shares in such manner as may be prescribed, so however that the Central Government shall at all times, hold not less than fifty-one per cent. of the paid-up capital of each corresponding new bank.

(*2C*) The entire paid-up capital of a corresponding new bank, except the paid-up capital raised by public issue under clause (*c*) of sub-section (*2B*), shall stand vested in, and allotted to, the Central Government.

(*2D*) The shares of every corresponding new bank not held by the Central Government shall be freely transferable:

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Provided that no individual or company resident outside India or any company incorporated under any law not in force in India or any branch of such company, whether resident outside India or not, shall at any time hold or acquire by transfer or otherwise shares of the corresponding new bank so that such investment in aggregate exceeds the percentage, not being more than twenty per cent. of the paid-up capital, as may be specified by the Central Government by notification in the Official Gazette.

Explanation.—For the purposes of this clause, "company" means any body corporate and includes a firm or other association of individuals.

(*2E*) No shareholder of the corresponding new bank, other than the Central Government, shall be entitled to exercise voting rights in respect of any shares held by him in excess of one per cent. of the total voting rights of all the shareholders of the corresponding new bank.

(*2F*) Every corresponding new bank shall keep at its head office a register, in one or more books, of the shareholders (in this Act referred to as the register) and shall enter therein the following particulars:—

(*i*) the names, addresses and occupations, if any, of the shareholders and a statement of the shares held by each shareholder, distinguishing each share by its denoting number;

(*ii*) the date on which each person is so entered as a shareholder;

(*iii*) the date on which any person ceases to be a shareholder; and

(*iv*) such other particulars as may be prescribed.

(*2G*) Notwithstanding anything contained in sub-section (*2F*), it shall be lawful for every corresponding new bank to keep the register in computer floppies or diskettes subject to such safeguards as may be prescribed.

(*3*) Notwithstanding anything contained in the Indian Evidence Act, 1872, a copy of, or extract from, the register, certified to be a true copy under the hand of an officer of the corresponding new bank authorised in this behalf by it, shall, in all legal proceedings, be admissible in evidence.'.

1 of 1872.

Insertion of new section 3A.

13. After section 3 of the Bank (Second) Nationalisation Act, the following section shall be inserted, namely:—

Trust not to be entered on the register.

"3A. Notwithstanding anything contained in sub-section (*2F*) of section 3, no notice of any trust, express, implied or constructive, shall be entered on the register, or be receivable by the corresponding new bank.".

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Amendment of section 9.

14. In section 9 of the Bank (Second) Nationalisation Act,—

(*i*) in sub-section (*2*), in clause (*a*), the words ", so however that the paid-up capital of any such bank shall not be in excess of rupees one thousand five hundred crores" shall be omitted;

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

'(*3*) Every Board of Directors of a correspoding new bank, constituted under any scheme made under sub-section (*1*), shall include—

(*a*) not more than two whole-time directors to be appointed by the Central Government after consultation with the Reserve Bank;

(*b*) one director who is an official of the Central Government to be nominated by the Central Government:

Provided that no such director shall be a director of any other corresponding new bank.

Explanation.—For the purposes of this clause, the expression "corresponding new bank" shall include a corresponding new bank within the meaning of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; 5 of 1970.

(*c*) one director who is an officer of the Reserve Bank to be nominated by the Central Government on the recommendation of the Reserve Bank.

Explanation.—For the purpose of this clause, "an officer of the Reserve Bank" includes an officer of the Reserve Bank who is deputed by that Bank under section 54AA of the Reserve Bank of India Act, 1934 to any institution referred to therein; 2 of 1934.

(*d*) not more than two directors to be nominated by the Central Government from amongst the Securities Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992, the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981, public financial institutions as specified in sub-section (*1*), or notified from time to time under sub-section (*2*), of section 4A of the Companies Act, 1956 and other institutions established or constituted by or under any Central Act or incorporated under the Companies Act, 1956 and having not less than fifty-one per cent. of the paid-up share capital held or controlled by the Central Government: 15 of 1992. 16 of 1981. 1 of 1956.

(*e*) one director, from among such of the employees of the corresponding new bank who are workmen under clause (*s*) of section 2 of the Industrial Disputes Act, 1947. to be nominated by the Central Government in such manner as may be specified in a scheme made under this section; 14 of 1947.

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14 of 1947.

(*f*) one director, from among the employees of the corresponding new bank who are not workmen under clause (*s*) of section 2 of the Industrial Disputes Act, 1947, to be nominated by the Central Government after consultation with the Reserve Bank;

(*g*) one director who has been a Chartered Accountant for not less than fifteen years to be nominated by the Central Government after consultation with the Reserve Bank;

(*h*) subject to the provisions of clause (*i*) not more than six directors to be nominated by the Central Government;

(*i*) where the capital issued under clause (*c*) of sub-section (*2B*) of section 3 is —

(*I*) not more than twenty per cent. of the total paid-up capital, not more than two directors,

(*II*) more than twenty per cent. but not more than forty per cent. of the total paid-up capital, not more than four directors,

(*III*) more than forty per cent. of the total paid-up capital, not more than six directors,

to be elected by the shareholders, other than the Central Government, from amongst themselves:

Provided that on the assumption of charge after election of any such directors under this clause, equal number of directors nominated under clause (*h*) shall retire in such manner as may be specified in the scheme.

(*3A*) The directors to be nominated under clause (*h*) or to be elected under clause (*i*) of sub-section (*3A*) shall—

(*A*) have special knowledge or practical experience in respect of one or more of the following matters, namely:—

(*i*) agricultural and rural economy,

(*ii*) banking,

(*iii*) co-operation,

(*iv*) economics,

(*v*) finance,

(*vi*) law,

(*vii*) small-scale industry,

(*viii*) any other matter the special knowledge of, and practical experience in, which would, in the opinion of the Reserve Bank, be useful to the corresponding new bank;

(*B*) represent the interests of depositors; or

(*C*) represent the interests of farmers, workers and artisans.

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(*3B*) Where the Reserve Bank is of the opinion that any director of a corresponding new bank elected under clause (*i*) of sub-section (*3*) does not fulfil the requirements of sub-section (*3A*), it may, after giving to such director and the bank a reasonable opportunity of being heard, by order, remove such director and on such removal, the Board of Directors shall co-opt any other person fulfilling the requirements of sub-section (*3A*) as a director in place of the person so removed till a director is duly elected by the shareholders of the corresponding new bank in the next annual general meeting and the person so co-opted shall be deemed to have been duly elected by the shareholders of the corresponding new bank as a director.".

Amendment of section 10.

15. In section 10 of the Bank (Second) Nationalisation Act,—

(*i*) in sub-section (7), for the words "shall transfer the balance of profits to the Central Government", the words "may, out of its net profits, declare a dividend and retain the surplus, if any" shall be substituted;

(*ii*) in sub-section (*7A*), after the words "the Central Government", the words "and to the Reserve Bank" shall be inserted.

Insertion of new section 10A.

16. After section 10 of the Bank (Second) Nationalisation Act, the following section shall be inserted, namely:—

Annual general meeting.

"10A. (*1*) A general meeting (in this Act referred to as an annual general meeting) of every corresponding new bank which has issued capital under clause (*c*) of sub-section (*2B*) of section 3 shall be held at the place of the head office of the bank in each year at such time as shall from time to time be specified by the Board of Directors:

Provided that such annual general meeting shall be held before the expiry of six weeks from the date on which the balance-sheet, together with the profit and loss account and auditor's report is, under sub-section (*7A*) of section 10, forwarded to the Central Government or to the Reserve Bank, whichever date is earlier.

(*2*) The shareholders present at an annual general meeting shall be entitled to discuss the balance-sheet and the profit and loss account of the corresponding new bank made up to the previous 31st day of March, the report of the Board of Directors on the working and activities of the corresponding new bank for the period covered by the accounts and the auditor's report on the balance-sheet and accounts.".

Amendment of section 19.

17. In section 19 of the Bank (Second) Nationalisation Act, in sub-section (*2*), after clause (*b*), the following clauses shall be inserted, namely:—

"(*ba*) the nature of shares of the corresponding new bank, the manner in which and the conditions subject to which shares may be held and transferred and generally all matters relating to the rights and duties of shareholders;

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(*bb*) the maintenance of register, and the particulars to be entered in the register in addition to those specified in sub-section (*2F*) of section 3, the safeguards to be observed in the maintenance of register on computer floppies or diskettes, inspection and closure of the register and all other matters connected therewith;

(*bc*) the manner in which general meetings shall be convened, the procedure to be followed thereat and the manner in which voting rights may be exercised;

(*bd*) the holding of meetings of shareholders and the business to be transacted thereat;

(*be*) the manner in which notices may be served on behalf of the corresponding new bank upon shareholders or other persons;

(*bf*) the manner in which the directors nominated under clause (*h*) of sub-section (*3*) of section 9 shall retire;".

Sd/-
(K.L. Mohanpuria),
Secretary to the Govt. of India.

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

Sd/-
Kum. H.K. Jhaveri,
Secretary to Government.

Government Central Press,Gandhinagar.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, Dated 24th October, 1994.

No. RP/94/94/38/94/72/E.-The following Act of Parliament is re-published for general information :-

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)
New Delhi, the 9th June, 1994.

The following Act of Parliament received the assent of the President on the 9th June, 1994/Jayestha 19, 1915 (Saka) and is hereby published for general information :

THE COPYRIGHT (AMENDMENT) ACT, 1994.

(Act 38 of 1994) **(9th June, 1994)**

AN ACT

further to amend the Copyright Act, 1957.

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

Short title and commencement.

1. (*1*) This Act may be called the Copyright (Amendment) Act, 1994.

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

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Amendment of section 2.

14 of 1957.

2. In section 2 of the Copyright Act, 1957 (hereinafter referred to as the principal Act),—

(*i*) in clause (*a*),—

(*a*) in sub-clause (*iii*), the word "and", occurring at the end, shall be omitted;

(*b*) in sub-clause (*iv*), the word "and" shall be inserted at the end;

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(*c*) after sub-clause (*iv*) as so amended, the following sub-clause shall be inserted, namely:—

"(*v*) in relation to any work, any use of such work involving its re-arrangement or alteration;";

(*ii*) in clause (*b*) and in all other provisions of the principal Act, for the words "architectural work of art", wherever they occur, the words "work of architecture" shall be substituted;

(*iii*) in clause (*d*), for sub-clauses (*v*) and (*vi*), the following sub-clauses shall be substituted, namely:—

"(*v*) in relation to a cinematograph film or sound recording, the producer; and

(*vi*) in relation to any literary, dramatic, musical or artistic work which is computer-generated, the person who causes the work to be created;";

(*iv*) for clause (*f*), the following clause shall be substituted, namely:—

'(*f*) "cinematograph film" means any work of visual recording on any medium produced through a process from which a moving image may be produced by any means and includes a sound recording accompanying such visual recording and "cinematograph" shall be construed as including any work produced by any process analogous to cinematography including video films;';

(*v*) for clause (*ff*), the following clauses shall be substituted, namely:—

'(*ff*) "communication to the public" means making any work available for being seen or heard or otherwise enjoyed by the public directly or by any means of display or diffusion other than by issuing copies of such work regardless of whether any member of the public actually sees, hears or otherwise enjoys the work so made available.

Explanation.—For the purposes of this clause, communication through satellite or cable or any other means of simultaneous communication to more than one household or place of residence including residential rooms of any hotel or hostel shall be deemed to be communication to the public;

(*ffa*) "composer", in relation to a musical work, means the person who composes the music regardless of whether he records it in any form of graphical notation;

(*ffb*) "computer" includes any electronic or similar device having information processing capabilities;

(*ffc*) "computer programme" means a set of instructions expressed in words, codes, schemes or in any other form, including a machine readable medium, capable of causing a computer to perform a particular task or achieve a particular result;

(*ffd*) "copyright society" means a society registered under sub-section (*3*) of section 33;';

(*vi*) for clause (*m*), the following clause shall be substituted, namely:—

'(*m*) "infringing copy" means,—

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(*i*) in relation to a literary, dramatic, musical or artistic work, a reproduction thereof otherwise than in the form of a cinematographic film;

(*ii*) in relation to a cinematographic film, a copy of the film made on any medium by any means;

(*iii*) in relation to a sound recording, any other recording embodying the same sound recording, made by any means;

(*iv*) in relation to a programme or performance in which such a broadcast reproduction right or a performer's right subsists under the provisions of this Act, the sound recording or a cinematographic film of such programme or performance,

if such reproduction, copy or sound recording is made or imported in contravention of the provisions of this Act;';

(*vii*) for clause (*o*), the following clause shall be substituted, namely:—

'(*o*) "literary work" includes computer programmes, tables and compilations including computer data basis;';

(*viii*) for clause (*p*), the following clause shall be substituted, namely:—

'(*p*) "musical work" means a work consisting of music and includes any graphical notation of such work but does not include any words or any action intended to be sung, spoken or performed with the music;';

(*ix*) for clause (*q*), the following clause shall be substituted, namely:—

'(*q*) "performance", in relation to performer's right, means any visual or acoustic presentation made live by one or more performers;';

(*x*) after clause (*q*), the following clause shall be inserted, namely:—

'(*qq*) "performer" includes an actor, singer, musician, dancer, acrobat, juggler, conjurer, snake charmer, a person delivering a lecture or any other person who makes a performance;';

(*xi*) clause (*r*) shall be omitted;

(*xii*) in clause (*t*) and in all other provisions of the principal Act, for the word "record", wherever it occurs, the words "sound recording" shall be substituted;

(*xiii*) after clause (*u*), the following clause shall be inserted, namely:—

'(*uu*) "producer", in relation to a cinematograph film or sound recording, means a person who takes the initiative and responsibility for making the work;';

(*xiv*) clause (*w*) shall be omitted;

(*xv*) for clause (*x*), the following clauses shall be substituted, namely:—

'(*x*) "reprography" means the making of copies of a work, by photo copying or similar means;

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(*xx*) "sound recording" means a recording of sounds from which such sounds may be produced regardless of the medium on which such recording is made or the method by which the sounds are produced.'.

Substitution of new section for section 3.

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

Meaning of publication.

'3. For the purposes of this Act, "publication" means making a work available to the public by issue of copies or by communicating the work to the public.'.

Substitution of new section for section 6.

4. For section 6 of the principal Act, the following section shall be substituted, namely:—

Certain disputes to be decided by Copyright Board.

'6. If any question arises,—

(*a*) whether a work has been published or as to the date on which a work was published for the purposes of Chapter V, or

(*b*) whether the term of copyright for any work is shorter in any other country than that provided in respect of that work under this Act,

it shall be referred to the Copyright Board constituted under section 11 whose decision thereon shall be final:

Provided that if in the opinion of the Copyright Board, the issue of copies or communication to the public referred to in section 3 was of an insignificant nature, it shall not be deemed to be publication for the purposes of that section.'.

Amendment of section 11.

5. In section 11 of the principal Act,—

(*a*) in sub-section (*1*), for the word "eight", the word "fourteen" shall be substituted;

(*b*) in sub-section (*3*), the words "the Supreme Court or" shall be omitted.

Amendment of section 12.

6. In section 12 of the principal Act,—

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

"Provided that, if the Chairman is of opinion that any matter of importance is required to be heard by a larger bench, he may refer the matter to a special bench consisting of five members.";

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

"Provided that where there is no such majority, the opinion of the Chairman shall prevail.";

(*c*) in sub-section (*4*), for the words "The Copyright Board", the words "The Chairman" shall be substituted.

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7. For section 14 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 14.

'14. For the purposes of this Act, "copyright" means the exclusive right subject to the provisions of this Act, to do or authorise the doing of any of the following acts in respect of a work or any substantial part thereof, namely:— Meaning of copyright.

(*a*) in the case of a literary, dramatic or musical work, not being a computer programme,—

(*i*) to reproduce the work in any material form including the storing of it in any medium by electronic means;

(*ii*) to issue copies of the work to the public not being copies already in circulation;

(*iii*) to perform the work in public, or communicate it to the public;

(*iv*) to make any cinematograph film or sound recording in respect of the work;

(*v*) to make any translation of the work;

(*vi*) to make any adaptation of the work;

(*vii*) to do, in relation to a translation or an adaptation of the work, any of the acts specified in relation to the work in sub-clauses (*i*) to (*vi*);

(*b*) in the case of a computer programme,—

(*i*) to do any of the acts specified in clause (*a*);

(*ii*) to sell or give on hire, or offer for sale or hire, any copy of the computer programme, regardless of whether such copy has been sold or given on hire on earlier occasions;

(*c*) in the case of an artistic work,—

(*i*) to reproduce the work in any material form including depiction in three dimensions of a two dimensional work or in two dimensions of a three dimensional work;

(*ii*) to communicate the work to the public;

(*iii*) to issue copies of the work to the public not being copies already in circulation;

(*iv*) to include the work in any cinematograph film;

(*v*) to make any adaptation of the work;

(*vi*) to do in relation to an adaptation of the work any of the acts specified in relation to the work in sub-clauses (*i*) to (*iv*);

(*d*) in the case of a cinematograph film,—

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(*i*) to make a copy of the film, including a photograph of any image forming part thereof;

(*ii*) to sell or give on hire, or offer for sale or hire, any copy of the film, regardless of whether such copy has been sold or given on hire on earlier occasions;

(*iii*) to communicate the film to the public;

(*e*) in the case of a sound recording,—

(*i*) to make any other sound recording embodying it;

(*ii*) to sell or give on hire, or offer for sale or hire, any copy of the sound recording regardless of whether such copy has been sold or given on hire on earlier occasions;

(*iii*) to communicate the sound recording to the public.

Explanation.—For the purposes of this section, a copy which has been sold once shall be deemed to be a copy already in circulation.'.

Amendment of section 19.

8. In section 19 of the principal Act, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) The assignment of copyright in any work shall identify such work, and shall specify the rights assigned and the duration and territorial extent of such assignment.

(*3*) The assignment of copyright in any work shall also specify the amount of royalty payable, if any, to the author or his legal heirs during the currency of the assignment and the assignment shall be subject to revision, extension or termination on terms mutually agreed upon by the parties.

(*4*) Where the assignee does not exercise the rights assigned to him under any of the other sub-sections of this section within a period of one year from the date of assignment, the assignment in respect of such rights shall be deemed to have lapsed after the expiry of the said period unless otherwise specified in the assignment.

(*5*) If the period of assignment is not stated, it shall be deemed to be five years from the date of assignment.

(*6*) If the territorial extent of assignment of the rights is not specified, it shall be presumed to extend within India.

(*7*) Nothing in sub-section (*2*) or sub-section (*3*) or sub-section (*4*) or sub-section (*5*) or sub-section (*6*) shall be applicable to assignments made before the coming into force of the Copyright (Amendment) Act, 1994.".

Substitution of new section for section 19A.

9. For section 19A of the principal Act, the following section shall be substituted, namely:—

Disputes with respect to assignment of copyright.

"19A. (*1*) If an assignee fails to make sufficient exercise of the rights assigned to him, and such failure is not attributable to any act or omission of the assignor, then, the Copyright Board may, on receipt of a complaint from the assignor and after holding such inquiry as it may deem necessary, revoke such assignment.

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(2) If any dispute arises with respect to the assignment of any copyright, the Copyright Board may, on receipt of a complaint from the aggrieved party and after holding such inquiry as it considers necessary, pass such order as it may deem fit including an order for the recovery of any royalty payable:

Provided that the Copyright Board shall not pass any order under this sub-section to revoke the assignment unless it is satisfied that the terms of assignment are harsh to the assignor in case the assignor is also the author:

Provided further that no order of revocation of assignment under this sub-section, shall be made within a period of five years from the date of such assignment.".

Insertion of new section 30A.

10. After section 30 of the principal Act, the following section shall be inserted, namely:—

Application of sections 19 and 19A.

"30A. The provisions of sections 19 and 19A shall, with any necessary adaptations and modifications, apply in relation to a licence under section 30 as they apply in relation to assignment of copyright in a work.".

Substitution of new Chapter for Chapter VII.

11. For Chapter VII of the principal Act, the following Chapter shall be substituted, namely:—

"CHAPTER VII

COPYRIGHT SOCIETIES

Registration of copyright society.

33. (1) No person or association of persons shall, after coming into force of the Copyright (Amendment) Act, 1994 commence or, carry on the business of issuing or granting licences in respect of any work in which copyright subsists or in respect of any other rights conferred by this Act except under or in accordance with the registration granted under sub-section (3):

Provided that an owner of copyright shall, in his individual capacity, continue to have the right to grant licences in respect of his own works consistent with his obligations as a member of the registered copyright society:

Provided further that a performing rights society functioning in accordance with the provisions of section 33 on the date immediately before the coming into force of the Copyright (Amendment) Act, 1994 shall be deemed to be a copyright society for the purposes of this Chapter and every such society shall get itself registered within a period of one year from the date of commencement of the Copyright (Amendment) Act, 1994.

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(2) Any association of persons who fulfils such conditions as may be prescribed may apply for permission to do the business specified in sub-section (1) to the Registrar of Copyrights who shall submit the application to the Central Government.

(3) The Central Government may, having regard to the interests of the authors and other owners of rights under this Act, the interest and convenience of the public and in particular of the groups of persons who are most likely to seek licences in respect of the relevant rights and the ability and professional competence of the applicants, register such association of persons as a copyright society subject to such conditions as may be prescribed:

Provided that the Central Government shall not ordinarily register more than one copyright society to do business in respect of the same class of works.

(4) The Central Government may, if it is satisfied that a copyright society is being managed in a manner detrimental to the interests of the owners of rights concerned, cancel the registration of such society after such inquiry as may be prescribed.

(5) If the Central Government is of the opinion that in the interest of the owners of rights concerned, it is necessary so to do, it may, by order, suspend the registration of such society pending inquiry for such period not exceeding one year as may be specified in such order under sub-section (4) and that Government shall appoint an administrator to discharge the functions of the copyright society.

Administration of rights of owner by copyright society.

34. (1) Subject to such conditions as may be prescribed,—

(a) a copyright society may accept from an owner of rights exclusive authorisation to administer any right in any work by issue of licences or collection of licence fees or both; and

(b) an owner of rights shall have the right to withdraw such authorisation without prejudice to the rights of the copyright society under any contract.

(2) It shall be competent for a copyright society to enter into agreement with any foreign society or organisation administering rights corresponding to rights under this Act, to entrust to such foreign society or organisation the administration in any foreign country of rights administered by the said copyright society in India, or for administering in India the rights administered in a foreign country by such foreign society or organisation :

Provided that no such society or organisation shall permit any discrimination in regard to the terms of licence or the distribution of fees collected between rights in Indian and other works.

(3) Subject to such conditions as may be prescribed, a copyright society may—

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(*i*) issue licences under section 30 in respect of any rights under this Act;

(*ii*) collect fees in pursuance of such licences;

(*iii*) distribute such fees among owners of rights after making deductions for its own expenses;

(*iv*) perform any other functions consistent with the provisions of section 35.

Payment of remunerations by copyright society.

34A. (*1*) If the Central Government is of the opinion that a copyright society for a class of work is generally administering the rights of the owners of rights in such work throughout India, it shall appoint that society for the purposes of this section.

(*2*) The copyright society shall, subject to such rules as may be made in this behalf, frame a scheme for determining the quantum of remuneration payable to individual copyright owners having regard to the number of copies of the work in circulation:

Provided that such scheme shall restrict payment to the owners of rights whose works have attained a level of circulation which the copyright society considers reasonable.

Control over the copyright society by the owner of rights.

35. (*1*) Every copyright society shall be subject to the collective control of the owners of rights under this Act whose rights it administers (not being owners of rights under this Act administered by a foreign society or organisation referred to in sub-section (*2*) of section 34) and shall, in such manner as may be prescribed,—

(*a*) obtain the approval of such owners of rights for its procedures of collection and distribution of fees;

(*b*) obtain their approval for the utilisation of any amounts collected as fees for any purpose other than distribution to the owner of rights; and

(*c*) provide to such owners regular, full and detailed information concerning all its activities, in relation to the administration of their rights.

(*2*) All fees distributed among the owners of rights shall, as far as may be, be distributed in proportion to the actual use of their works.

Submission of returns and reports.

36. (*1*) Every copyright society shall submit to the Registrar of Copyrights such returns as may be prescribed.

(*2*) Any officer duly authorised by the Central Government in this behalf may call for any report and also call for any records of

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any copyright society for the purpose of satisfying himself that the fees collected by the society in respect of rights administered by it are being utilised or distributed in accordance with the provisions of this Act.

Rights and liabilities of performing rights societies.

36A. Nothing in this Chapter shall affect any rights or liabilities in any work in connection with a performing rights society which had accrued or were incurred on or before the day prior to the commencement of the Copyright (Amendment) Act, 1994, or any legal proceedings in respect of any such rights or liabilities pending on that day.".

Amendment of Chapter VIII.

12. In Chapter VIII of the principal Act, for the heading "RIGHTS OF BROADCASTING AUTHORITIES", the heading "RIGHTS OF BROADCASTING ORGANISATION AND OF PERFORMERS" shall be substituted.

Substitution of new section for section 37.

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

Broadcast reproduction right.

'37. (*1*) Every broadcasting organisation shall have a special right to be known as "broadcast reproduction right" in respect of its broadcasts.

(*2*) The broadcast reproduction right shall subsist until twenty-five years from the beginning of the calendar year next following the year in which the broadcast is made.

(*3*) During the continuance of a broadcast reproduction right in relation to any broadcast, any person who, without the licence of the owner of the right does any of the following acts of the broadcast or any substantial part thereof,—

(*a*) re-broadcasts the broadcast; or

(*b*) causes the broadcast to be heard or seen by the public on payment of any charges; or

(*c*) makes any sound recording or visual recording of the broadcast; or

(*d*) makes any reproduction of such sound recording or visual recording where such initial recording was done without licence or, where it was licensed, for any purpose not envisaged by such licence; or

(*e*) sells or hires to the public, or offers for such sale or hire, any such sound recording or visual recording referred to in clause (*c*) or clause (*d*),

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shall, subject to the provisions of section 39, be deemed to have infringed the broadcast reproduction right.'.

Substitution of new section for section 38.

14. For section 38 of the principal Act, the following section shall be substituted, namely:—

Performer's right.

'38. (*1*) Where any performer appears or engages in any performance, he shall have a special right to be known as the "performer's right" in relation to such performance.

(*2*) The performer's right shall subsist until twenty-five years from the beginning of the calendar year next following the year in which the performance is made.

(*3*) During the continuance of a performer's right in relation to any performance, any person who, without the consent of the performer, does any of the following acts in respect of the performance or any substantial part thereof, namely:—

(*a*) makes a sound recording or visual recording of the performance; or

(*b*) reproduces a sound recording or visual recording of the performance, which sound recording or visual recording was—

(*i*) made without the performer's consent; or

(*ii*) made for purposes different from those for which the performer gave his consent; or

(*iii*) made for purposes different from those referred to in section 39 from a sound recording or visual recording which was made in accordance with section 39; or

(*c*) broadcasts the performance except where the broadcast is made from a sound recording or visual recording other than one made in accordance with section 39, or is a re-broadcast by the same broadcasting organisation of an earlier broadcast which did not infringe the performer's right; or

(*d*) communicates the performance to the public otherwise than by broadcast, except where such communication to the public is made from a sound recording or a visual recording or a broadcast,

shall, subject to the provisions of section 39, be deemed to have infringed the performer's right.

(4) Once a performer has consented to the incorporation of his performance in a cinematograph film, the provisions of sub-sections (*1*), (*2*) and (*3*) shall have no further application to such performance.'.

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Substitution of new sections for section 39.

15. For section 39 of the principal Act, the following sections shall be substituted, namely:—

Acts not infringing broadcast reproduction right or performer's right.

"39. No broadcast reproduction right or performer's right shall be deemed to be infringed by—

(*a*) the making of any sound recording or visual recording for the private use of the person making such recording, or solely for purposes of *bona fide* teaching or research; or

(*b*) the use, consistent with fair dealing, of excerpts of a performance or of a broadcast in the reporting of current events or for *bona fide* review, teaching or research; or

(*c*) such other acts, with any necessary adaptations and modifications, which do not constitute infringement of copyright under section 52.

Other provisions applying to broadcast reproduction right and performer's right.

39A. Sections 18, 19, 30, 53, 55, 58; 64; 65 and 66 shall, with any necessary adaptations and modifications, apply in relation to the broadcast reproduction right in any broadcast and the performer's right in any performance as they apply in relation to copyright in a work:

Provided that where copyright or performer's right subsists in respect of any work or performance that has been broadcast, no licence to reproduce such broadcast shall take effect without the consent of the owner of rights or performer, as the case may be, or both of them.".

Amendment of section 51.

16. In section 51 of the principal Act,—

(*1*) in clause (*a*), for sub-clause (*ii*), the following sub-clause shall be substituted, namely:—

"(*ii*) permits for profit any place to be used for the communication of the work to the public where such communication constitutes an infringement of the copyright in the work, unless he was not aware and had no reasonable ground for believing that such communication to the public would be an infringement of copyright; or";

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

"Provided that nothing in sub-clause (*iv*) shall apply to the import of one copy of any work for the private and domestic use of the importer.".

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Amendment of section 52.

17. In section 52 of the principal Act, in sub-section (*1*),—

(*1*) in clause (*a*),—

(*i*) after the words "artistic work", the words ", not being a computer programme," shall be inserted;

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

"(*i*) private use, including research;";

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

"(*aa*) the making of copies or adaptation of a computer programme by the lawful possessor of a copy of such computer programme, from such copy—

(*i*) in order to utilise the computer programme for the purpose for which it was supplied; or

(*ii*) to make back-up copies purely as a temporary protection against loss, destruction or damage in order only to utilise the computer programme for the purpose for which it was supplied;";

(*3*) in clause (*i*), the words "or the communication to such an audience of a cinematograph film or sound recording" shall be inserted at the end;

(*4*) for clause (*j*) and (*k*), the following clauses shall be substituted, namely:—

"(*j*) the making of sound recordings in respect of any literary, dramatic or musical work, if—

(*i*) sound recordings of that work have been made by or with the licence or consent of the owner of the right in the work;

(*ii*) the person making the sound recordings has given a notice of his intention to make the sound recordings, has provided copies of all covers or labels with which the sound recordings are to be sold, and has paid in the prescribed manner to the owner of rights in the work royalties in respect of all such sound recordings to be made by him, at the rate fixed by the Copyright Board in this behalf:

Provided that—

(*i*) no alterations shall be made which have not been made previously by or with the consent of the owner of rights, or which are not reasonably necessary for the adaptation of the work for the purpose of making the sound recordings;

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(*ii*) the sound recordings shall not be issued in any form of packaging or with any label which is likely to mislead or confuse the public as to their identity;

(*iii*) no such sound recording shall be made until the expiration of two calendar years after the end of the year in which the first sound recording of the work was made; and

(*iv*) the person making such sound recordings shall allow the owner of rights or his duly authorised agent or representative to inspect all records and books of account relating to such sound recording:

Provided further that if on a complaint brought before the Copyright Board to the effect that the owner of rights has not been paid in full for any sound recordings purporting to be made in pursuance of this clause, the Copyright Board is, *prima facie*, satisfied that the complaint is genuine, it may pass an order *ex parte* directing the person making the sound recording to cease from making further copies and, after holding such inquiry as it considers necessary, make such further order as it may deem fit, including an order for payment of royalty;

(*k*) the causing of a recording to be heard in public by utilising it,—

(*i*) in an enclosed room or hall meant for the common use of residents in any residential premises (not being a hotel or similar commercial establishment) as part of the amenities provided exclusively or mainly for residents therein; or

(*ii*) as part of the activities of a club or similar organisation which is not established or conducted for profit;";

(*5*) for clause (*s*), the following clause shall be substituted, namely:—

"(*s*) the making or publishing of a painting, drawing, engraving or photograph of a work of architecture or the display of a work of architecture;";

(*6*) clause (*w*) shall be omitted;

(*7*) after clause (*y*), the following clauses shall be inserted, namely:—

"(*z*) the making of an ephemeral recording, by a broadcasting organisation using its own facilities for its own broadcast by a broadcasting organisation of a work which it has the right to broadcast; and the retention of such recording for archival purposes on the ground of its exceptional documentary character;

(*za*) the performance of a literary, dramatic or musical work or the communication to the public of such work or of a sound recording in the course of any *bona fide* religious ceremony or an official ceremony held by the Central Government or the State Government or any local authority.

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Explanation.—For the purpose of this clause, religious ceremony including a marriage procession and other social festivities associated with a marriage.".

Insertion of new section 52B.

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

Accounts and audit.

"52B. (*1*). Every copyright society appointed under section 34A 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 by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of each of the copyright societies in relation to the payments received from the Central Government 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 copyright society to the Comptroller and Auditor-General.

(*3*) The Comptroller and Auditor-General of India or any other person appointed by him in connection with the audit of the accounts of the copyright society referred to in sub-section (2) 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 the Government accounts and, in particular, shall have the right to demand the production of books, accounts and other documents and papers and to inspect any of the offices of the copyright society for the purpose only of such audit.

(*4*) The accounts of each of the copyright societies 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.".

Insertion of new section 53A.

19. In Chapter XI, after section 53 of the principal Act, the following section shall be inserted, namely:—

Resale share right in original copies.

"53A. (*1*) In the case of resale for a price exceeding ten thousand rupees, of the original copy of a painting, sculpture or drawing, or of the original manuscript of a literary or dramatic work or musical work, the author of such work if he was the first owner of rights under section 17 or his legal heirs shall, notwithstanding any assignment of copyright in such work, have a right to share in the resale price of such original copy or manuscript in accordance with the provisions of this section:

Provided that such right shall cease to exist on the expiration of the term of copyright in the work.

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(2) The share referred to in sub-section (1) shall be such as the Copyright Board may fix and the decision of the Copyright Board in this behalf shall be final:

Provided that the Copyright Board may fix different shares for different classes of work:

Provided further that in no case shall the share exceed ten per cent. of the resale price.

(3) If any dispute arises regarding the right conferred by this section, it shall be referred to the Copyright Board whose decision shall be final.".

Amendment of section 57.

20. In section 57 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Independently of the author's copyright and even after the assignment either wholly or partially of the said copyright, the author of a work shall have the right—

(a) to claim authorship of the work; and

(b) to restrain or claim damages in respect of any distortion, mutilation, modification or other act in relation to the said work which is done before the expiration of the term of copyright if such distortion, mutilation, modification or other act would be prejudicial to his honour or reputation:

Provided that the author shall not have any right to restrain or claim damages in respect of any adaptation of a computer programme to which clause (aa) of sub-section (1) of section 52 applies.

Explanation.—Failure to display a work or to display it to the satisfaction of the author shall not be deemed to be an infringement of the rights conferred by this section.".

Amendment of section 63.

21. In section 63 of the principal Act,—

(1) in clause (b), the words, figures and letter "except the right conferred by section 53A" shall be inserted at the end;

(2) in the proviso, after the words "Provided that", the words "where the infringement has not been made for gain in the course of trade or business" shall be inserted.

Amendment of section 63A.

22. In the first proviso to section 63A of the principal Act, after the words "Provided that", the words "where the infringement has not been made for gain in the course of trade or business" shall be inserted.

Insertion of new section 63B.

23. After section 63A of the principal Act, the following section shall be inserted, namely:—

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"63B. Any person who knowingly makes use on a computer of an infringing copy of a computer programme shall be punishable with imprisonment for a term which shall not be less than seven days but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees: Knowing use of infringing copy of computer programme to be an offence.

Provided that where the computer programme has not been used for gain or in the course of trade or business, the court may, for adequate and special reasons to be mentioned in the judgment, not impose any sentence of imprisonment and may impose a fine which may extend to fifty thousand rupees.".

24. In section 78 of the principal Act, in sub-section (*2*),— Amendment of section 78.

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

"(*ca*) the conditions for submission of application under sub-section (*2*) of section 33;

(*cb*) the conditions subject to which a copyright society may be registered under sub-section (*3*) of section 33;

(*cc*) the inquiry for cancellation of registration under sub-section (*4*) of section 33;

(*cd*) the conditions subject to which the copyright society may accept authorisation under clause (*a*) of sub-section (*1*) of section 34 and the conditions subject to which owners of rights have right to withdraw such authorisation under clause (*d*) of that sub-section;

(*ce*) the conditions subject to which a copyright society may issue licences, collect fees and distribute such fees amongst owners of rights under sub-section (*3*) of section 34;

(*cf*) the manner in which the approval of the owners of rights regarding collection and distribution of fees, approval for utilisation of any amount collected as fees and to provide to such owners information concerning activities in relation to the administration of their rights under sub-section (*1*) of section 35;

(*cg*) the returns to be filed by copyright societies to the Registrar of Copyrights under sub-section (*1*) of section 36;";

(*ii*) after clause (*d*), the following clauses shall be inserted, namely:—

"(*da*) the manner of payment of royalty under clause (*j*) of sub-section (*1*) of section 52;

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(*db*) the form and the manner in which the copyright society shall maintain accounts and other relevant records and prepare annual statements of accounts and the manner in which the quantum of remuneration is to be paid to individual owner of rights under sub-section (*1*) of section 52B.".

Sd/-
K.L. Mohanpuria,
Secretary to the Government of India.

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

Sd/-
Kum. H.K. Jhaveri,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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REGISTERED NO. G/GNR/2

Extra No. 26



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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.

LEGISLATIVE AND PARLIAMENTARY
AFFAIRS DEPARTMENT,
Sachivalaya, Gandhinagar,
26th October, 1994.

No.RP/76-94/20/94/74/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
[LEGISLATIVE DEPARTMENT]
New Delhi, the 22nd March, 1994.

The following Act of Parliament received the assent of the President on the 22nd March, 1994 and is hereby published for general information :

THE BANKING REGULATION (AMENDMENT) ACT, 1994

AN ACT

(Act No. 20 of 1994)

(22nd March, 1994)

further to amend the Banking Regulation Act, 1949.

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

Short title and commencement.

1. (*1*) This Act may be called the Banking Regulation (Amendment) Act, 1994.

(*2*) It shall be deemed to have come into force on the 31st day of January, 1994.

Amendment of section 10B.

10 of 1949.

2. In section 10B of the Banking Regulation Act, 1949 (hereinafter referred to as the principal Act),—

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

"(*1*) Notwithstanding anything contained in any law for the time being in force or in any contract to the contrary, every banking company in existence on the commencement of the Banking Regulation (Amendment) Act, 1994, or which comes into existence thereafter shall have one of its directors, who may be appointed on a whole-time or a part-time basis, as chairman

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of its Board of directors, and where he is appointed on a whole-time basis, as chairman of its Board of directors, he shall be entrusted with the management of the whole of the affairs of the banking company:

Provided that the chairman shall exercise his powers subject to the superintendence, control and direction of the Board of directors.

(*1A*) Where a chairman is appointed on a part-time basis,—

(*i*) such appointment shall be with the previous approval of the Reserve Bank and be subject to such conditions as the Reserve Bank may specify while giving such approval;

(*ii*) the management of the whole of the affairs of such banking company shall be entrusted to a managing director who shall exercise his powers subject to the superintendence, control and direction of the Board of directors.";

(*b*) in sub-section (*2*), for the words "E ..y chairman of the Board of directors", the words "Every chairman of the Board of directors who is appointed on a whole-time basis and every managing director" shall be substituted;

(*c*) in sub-section (*4*),—

(*i*) in the opening paragraph, for the words "Every chairman of the Board of directors of a banking company", the words, brackets, figure and letter "Every chairman who is appointed on a whole-time basis and every managing director of a banking company appointed under sub-section (*1A*)" shall be substituted;

(*ii*) in the proviso, for the word "chairman", the words "chairman who is appointed on a whole-time basis or a managing director" shall be substituted;

(*d*) in sub-sections (*5*) and (5A), for the words "A chairman of the Board of directors", the words "A chairman of the Board of directors appointed on a whole-time basis or a managing director" shall be substituted;

(*e*) in sub-section (*6*),—

(*i*) for the words "chairman of the Board of directors" wherever they occur, the words "chairman of the Board of directors who is appointed on a whole-time basis or the managing director" shall be substituted;

(*ii*) for the words "chairman of its Board of directors" at both the places where they occur, the words "chairman of the Board of directors who is appointed on a whole-time basis or the managing director" shall be substituted;

(*iii*) for the words "appointed as chairman", the words "appointed as chairman on a whole-time basis or managing director" shall be substituted;

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(*f*) in sub-section (*8*),—

(*i*) for the words "the chairman", the words "the chairman of the Board of directors who is appointed on a whole-time basis or the managing director" shall be substituted;

(*ii*) for the words "such chairman", the words "such chairman or managing director" shall be substituted;

(*g*) in sub-section (*9*),—

(*i*) for the words "appointed as chairman", the words "appointed on a whole-time basis, as chairman of the Board of directors or managing director" shall be substituted;

(*ii*) for the words "duties of chairman", the words "duties of chairman or managing director" shall be substituted.

Amendment of section 10BB.

3. In section 10BB of the principal Act, for the word "chairman" wherever it occurs, the words "chairman of the Board of directors appointed on a whole-time basis or a managing director" shall be substituted.

Amendment of section 10C.

4. In section 10C of the principal Act, for the words "A chairman", the words "A chairman of the Board of directors who is appointed on a whole-time basis or a managing director" shall be substituted.

Amendment of section 10D.

5. In section 10D of the principal Act, for the words "director or chairman", the words "director, chairman of the Board of directors who is appointed on a whole-time basis or managing director" shall be substituted.

Amendment of section 12.

6. In section 12 of the principal Act, in sub-section (*2*), for the words "one per cent.", the words "ten per cent." shall be substituted.

Amendment of section 16.

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

"(*1*) No banking company incorporated in India shall have as a director in its Board of directors any person who is a director of any other banking company.

(*1A*) No banking company referred to in sub-section (*1*) shall have in its Board of directors, more than three directors who are directors of companies which among themselves are entitled to exercise voting rights in excess of twenty per cent. of the total voting rights of all the shareholders of that banking company.".

Amendment of section 46.

8. In section 46 of the principal Act, in sub-section (*4*), for the portion beginning with the words "two thousand rupees" and ending with the words "one hundred rupees", the following shall be substituted, namely:—

"fifty thousand rupees or twice the amount involved in such contravention or default where such amount is quantifiable, whichever is more, and where a contravention or default is a continuing one, with a further fine which may extend to two thousand and five hundred rupees".

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Amendment of section 46A.

9. In section 46A of the principal Act, for the words "Every chairman, director, auditor", the words "Every chairman who is appointed on a whole-time basis, managing director, director, auditor" shall be substituted.

Amendment of section 47A.

10. In section 47A of the principal Act,—

(*i*) in sub-section (*1*), in clause (*b*), for the portion beginning with the words "two thousand rupees" and ending with the words "one hundred rupees", the following shall be substituted, namely:—

"five lakh rupees or twice the amount involved in such contravention or default where such amount is quantifiable, whichever is more, and where such contravention or default is a continuing one, a further penalty which may extend to twenty-five thousand rupees";

(*ii*) for sub-sections (*2*) and (*3*), the following sub-section shall be substituted, namely:—

"(*2*) For the purpose of adjudging the penalty under sub-section (*1*), the Reserve Bank shall serve notice on the banking company requiring it to show cause why the amount specified in the notice should not be imposed and a reasonable opportunity of being heard shall also be given to such banking company.".

Repeal and saving.

11. (*1*) The Banking Regulation (Amendment) Ordinance, 1994, is hereby repealed. Ord. 5 of 1994.

(*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,
Secretary to the Govt. of India,

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

Sd/–
Kum. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 27th October, 1994.

No. RP/86/94/24/94/75/E.—The following Act of Parliament is re-published for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 28th March, 1994.

The following Act of Parliament received the assent of the President on the 28th March, 1994/Chaitra 7, 1915 (Saka) and is hereby published for general information.

THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO TRANSACTIONS IN SECURITIES) AMENDMENT ACT, 1994.

(Act 24 of 1994) **(28th March, 1994)**

AN ACT

to amend the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992.

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

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Short title and commencement.

1. (*1*) This Act may be called the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Act, 1994.

(*2*) It shall be deemed to have come into force on the 25th day of January, 1994.

Amendment of section 5.

27 of 1992. 2. In section 5 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 (hereinafter referred to as the principal Act), after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) When the office of the Judge of the Special Court is vacant by reason of absence or leave, the duties of the office shall be performed by such Judge of the High Court within the local limits of whose jurisdiction the Special Court is situated as the Chief Justice of that High Court may, with the concurrence of the Chief Justice of India, nominate for the purpose and the Judge so appointed shall have all the jurisdiction and powers of the Judge of the Special Court including the powers to pass final orders.".

Insertion of new sections 9A and 9B.

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

Jurisdiction, powers, authority and procedure of Special Court in civil matters.

"9A. (*1*) On and from the commencement of the Special Court (Trial of Officences Relating to Transactions in Securities) Amendment Act, 1994, the Special Court shall exercise all such jurisdiction, powers and authority as were exercisable, immediately before such commencement, by any civil court in relation to any matter or claim—

(*a*) relating to any property standing attached under sub-section (3) of section 3;

(b) arising out of transactions in securities entered into after the 1st day of April, 1991, and on or before the 6th day of June, 1992, in which a person notified under sub-section (*2*) of section 3 is involved as a party, broker, intermediary or in any other manner.

(*2*) Every suit, claim or other legal proceeding (other than an appeal) pending before any court immediately before the commencement of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Act, 1994, being a suit, claim or proceeding, the cause of action whereon it is based is such that it would have been, if it had arisen after such commencement, within the jurisdiction of the Special Court under sub-section (*1*), shall stand transferred on such commencement to the Special Court and the Special Court may, on receipt of the records of such suit, claim or other legal proceeding, proceed to deal with it, so far as may be, in the same manner as a suit, claim or legal proceeding from the stage which was reached before such transfer or from any earlier stage or *de novo* as the Special Court may deem fit.

(*3*) On and from the commencement of the Special Court (Trial of Officences Relating to Transactions in Securities) Amendment Act, 1994, no court other than the Special Court shall have, or be entitled to exercise, any jurisdiction, power or authority in relation to any matter or claim referred to in sub-section (*1*).

(*4*) While dealing with cases relating to any matter or claim under this section, the Special Court shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice, and subject to the other provisions of this Act and of any rules, the Special Court shall have power to regulate its own procedure. 5 of 1908.

(*5*) Without prejudice to the other powers conferred under this Act, the Special Court shall have, for the purposes of discharging its functions under this section, the same powers as are vested in a civil court under the Code of Civil Proceudure, 1908, while trying a suit, in respect of the following matters, namely:— 5 of 1908.

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

(*b*) requiring the discovery and production of documents ;

(*c*) receiving evidence on affidavits ;

1 of 1872. (*d*) subject to the provisions of sec tions 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office.

(*e*) issuing commissions for the examiniation of witnesses or documentes;

(*f*)) reviewing its decisions ;

(*g*) dismissing a case for default or deciding it *ex parte* ;

(*h*) setting aside any order of dismissal of any case for default or any order passed by it *ex parte*, and

(*i*) any other matter which may be prescribed by the Central Government under sub-section (*1*) of section 14.

10 of 1940. 9B. (*1*) The Special Court shall have the jurisdiction and powers of a Court conferred under the Arbitration Act, 1940 to decide any question forming the subject matter of a referencee relating to any matter or claim mentioned in sub-section (*1*) of section 9A. Powers of the Special Court in arbitration matteres.

(*2*) Every suit or other proceedings (other than an appeal) in relation to any matter or claim referred to in sub-section (*1*) of section 9A pending before any Court and governed by the Arbitration Act, 1940, immediately before the date of commencement of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Act, 1994 shall stand transferred on that date to the Special Court.

10 of 1940. *Explanation.*—For the purposes of this section, the expressions "Court" and "reference" shall have respectively the same meanings as defined under clauses (*c*) and (*e*) of section 2 of the Arbitration Act, 1940.",

4. In section 10 of the principal Act,— Amendment of section 10.

5 of 1908. 10 of 1940. (*a*) in sub-section (*1*), after the word "Code" the words and figures "or the Code of Civil Procedure, 1908 or the Arbitration Act, 1940" shall be inserted;

(*b*) in sub-sections (*1*) and (*2*), after the word" judgement", the word"decree" shall be inserted.

5. After section 11 of the principal Act, the following section shall be inserted, namely:— Insertion of new section11A.

70 of 1971. "11A. The Special Court shall have, and exerise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and for this purpose, the provisions of the Contempt of Courts Act, 1971, shall have effect subject to the modifications that— Power to punish for contempt.

(*a*) the references therein to a High Court shall be construed as including a reference to such Special Court :

(*b*) the references to the Advocate-General in section 15 of the said Act, shall be construed, in relation to the Special Court as a reference to the Attorney-General or the Solicitor-General or the Additional Solicitor-General.".

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Repeal and savings

6. (*1*) The Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1994 is hereby repealed. Ord. 3 of 1994.

(*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/—.

(A. C. C. UNNI) ;
Addi. Secy. to the Govt. of India.

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

Kum. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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The Gujarat Government Gazette

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

PART—VI

Acts of Parliament and Ordinance promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 27th October, 1994.

No. RP/81/94/25/94/75/E.–The following Act of Parliament is re-published for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 28th March, 1994.

The following Act of Parliament received the assent of the President on the 28th March, 1994/Chaitra 7, 1915 (Saka) and is hereby published for general information :

THE MINES AND MINERALS (REGULATION AND DEVELOPMENT) AMENDMENT ACT, 1994.

(Act-25 to 1994) *AN ACT* (28th March, 1994).

further to amend the Mines and Minerals (Regulation and Development) Act, 1957.

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

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Short title and commencement.

1. (*1*) This Act may be called the Mines and Minerals (Regulation and Development) Amendment Act, 1994.

(*2*) It shall be deemed to have come into force on the 25th day of January, 1994.

Amendment of section 4A.

2. In the Mines and Minerals (Regulation and Development) Act, 1957 (hereinafter referred to as the principal Act), in section 4A,– 67 of 1957.

(*a*) in sub-section (*2*), the words ",after consulatation with the Central Government," shall be omitted;

(*b*) in sub-section (*4*), for the words "one year" wherever they occur, the words "two years" shall be substituted.

Amendment of section 5.

3. In section 5 of the principal Act,–

(*i*) for sub-section (*1*), the following sub-section shall be substituted, namely:–

"(*1*) A State Government shall not grant a prospecting licence or mining lease to any person unless such person—

(*a*) is an Indian national, or a company as defined in sub-section (*1*) of section 3 of the Companies Act, 1956; and 1 of 1956.

(*b*) satisfies such conditions as may be prescribed :

Provided that in respect of any mineral specified in the First Schedule, no prospecting licence or mining lease shall be granted except with the previous approval of the Central Government.

Explanation.—For the purposes of this sub-section, a person shall be deemed to be an Indian national,–

(*a*) in the case of a firm or other association of individuals, only if all the members of the firm or members of the association are citizens of India; and

(*b*) in the case of an individual, only if he is a citizen of India.";

(*ii*) in sub-section (*2*), in clause (*a*), the proviso shall be omitted.

substitution of new section for section 7.

4. For section 7 of the principal Act, the following section shall be substituted, namely:–

"7. (*1*) The period for which a prospecting licence may be granted shall not exceed three years.

Periods for which prospecting licences may be granted or renewel.

(*2*) A prospecting licence shall, if the State Government is satisfied that a longer period is required to enable the licensee to complete prospecting operations, be renewed for such period or periods as that Government may specify :

Provided that the total period for which a prospecting licence is granted does not exceed five years :

Provided further that no prospecting licence granted in respect of a mineral included in the First Schedule shall be renewed except with the previous approval of the Central Government.".

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Amendment of section 8.

5. In section 8 of the principal Act,-

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

"(*1*) The maximum period for which a mining lease may be granted shall not exceed thirty years;

Provided that the minimum period for which any such mining lease may be granted shall not be of less than twenty years.";

(*b*) in sub-section (*2*), for the words "two periods each not exceeding ten years", the words "a period not exceeding twenty years" shall be substituted;

(*c*) in sub-section (*3*), for the words "in each case the period for which the mining lease was originaly, granted", the words "twenty years in each case" shall be substituted.

Amendment of section 16.

6. In section 16 of the principal Act,-

(*a*) in sub-section (*1*),-

(*i*) in clause (*a*), for the portion beginning with the words "if in force at such commencement" and ending with the words "six months from such commencement", the following shall be substituted, namely:-

"if in force at the date of commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1994, shall be brought in conformity with the provisions of this Act and the rules made thereunder within two years from the date of the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1994";

(*ii*) in clause (*b*), for the words, brackets and figures "six months from the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972", the words, brackets and figures "two years from the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1994" shall be substituted,

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

"(*1A*) Where any action is taken under clause (*a*) or clause (*b*) of sub-section (*1*) to bring the period of any lease in conformity with the provisions of this Act and the rules made thereunder, then, notwithstanding anything, contained in section 8, the period of such lease shall continue to operate for a period of two years from the date of bringing such lease in conformity with the provisions of this Act.".

Amendment of section 17A.

7. In section 17A of the principal Act,—

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

'(*1A*) The Central Government may, in consultation with the State Government, reserve any area not already held under any prospecting licence or mining lease, for undertaking prospecting or mining operations through a Government company or corporation owned or controlled by it, and where it proposes to do so, it shall, by notification in the Official Gazette, specify the boundaries of such area and the mineral or minerals in respect of which such area will be reserved.";

(*b*) in sub-section (*2*), the words "or by the Central Government" shall be omitted;

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(*c*) in sub-section (*3*), for the words, brackets and figure "Where in exercise of the powers conferred by sub-section (2) the State Government", the words, brackets, figures and letter "where in exercise of the powers conferred by sub-section (*1A*) or sub-section (*2*) the Central Government or the State Government, as the case may be shall be", substituted.

Amendment of section 19.

8. In section 19 of the principal Act, in the *Explanation*, the words "in any State" shall be omitted.

Insertion of new section 23B.

9. After section 23A of the principal Act, the following section shall be inserted, namely:–

Power to search.

"23B. If any gazetted officer of the Central or a State Governemnt authorised by the Central Government in this behalf by general or special order has reason to believe that any mineral has been raised in contravention of the provisions of this Act or the rules made thereunder or any document or thing in relation to such mineral is secreted in any place, be may search for such mineral, document or thing and the provisions of section 100 of the Code of Criminal Procedure, 1973 shall apply to every such search.". 2 of 1974.

Amendment of section 28.

10. In section 28 of the principal Act, after sub-section (*2*), the following sub-section shall be inserted, namely:–

"(*3*) Every rule and every notification made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.".

Amendment of section 30.

11. In section 30 of the principal Act, the words "with respect to any mineral other than a minor mineral' shall be inserted at the end.

Substitution of new Schedule for the First Schedule.

12. For the First Schedule to the principal Act, the following Schedule shall be substituted, namely:–

"THE FIRST SCHEDULE

[*See* section 4 (*3*), 5 (*1*) 7 (*2*) and 8 (*2*)]

SPECIFIED MINERALS

PART A

Hydro carbons/energy minerals

1. Coal and lignite.

PART B

Atomic minerals

1. Beryl and other beryllium-bearing minerals.

2. Lithium-bearing minerals.

3. Minerals of the "rare earhts" group containing uranium and thorium.

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4. Niobium-bearing minerals.

5. Phosphorites and other phosphatic ores containing uranium.

6. Pitchblende and other uranium ores.

7. Rutile.

8. Tantallium-bearing minerals.

9. Uraniferous allanite, monazite and other thorium minerals.

10. Uranium bearing tailings left over from ores after extraction of copper and gold, ilmenite and other titanium ores.

11. Zircon.

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Metallic and non-metallic minerales

1. Asbestos.

2. Bauxite.

3. Chrome ore.

4. Copper ore.

5. Gold.

6. Iron ore.

7. Lead.

8. Limestone, except when it is used in kilns for the manufacture of lime as building material.

9. anganese ore.

10. Precious stones.

11. Zink.".

Ord. 2 of 1994.

13. (*1*) The Mines and Minerals (Regulation and Development) Amendment Ordinance, 1994 is hereby repealed. Repeal and saving.

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

Sd/-

(A. C. C. UNNI,)
Additional Secretary to the Government of India,

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

KUM. H. K. JHAVERI,
Secretary to Government.

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PART—VI

Acts of Parliament and Ordinance promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar 19th November, 1994.

No. RP/95/94/77/E.—The following ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, Section 1, dated the 29th September, 1994 is republished for general information :—

GOVERNMENT OF INDIA

THE CABLE TELEVISION NETWORKS (REGULATION) ORDINANCE 1994.

(No. 9 of 1994) **(29th September, 1994).**

Promulgated by the President in the Forty-fifth Year of the Repulic of India.

An Ordinance to provide for the regulation of the operation of cable television networks in the country and for matters connected therewith or incidental thereto.

WHEREAS the Cable Television Networks (Regulation) Bill 1993 was introduced in the Rajya Sabha and the said Bill is pending in that House ;

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

NOW, THEREFORE, in exercise of the powers onferred by clause (1) of article 123 of the Consultation, the President is pleased to promulgate the following Ordinance:-

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CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Ordinance may be called the Cable Television Networks (Regulation) Ordinance, 1994.

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

Definitions.

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

(*a*) 'cable operator' means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television networks.

(*b*) ''cable service'' means the transmission by cables of programmes including re-transmission (by cables of any broadcast television signals);

(*c*) "cable television networks" means any system consisting of a set of closed trasmission paths and associated signal generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers;

(*d*) "company" means a company as defined in section 3 of the Companies Act, 1956. 1 of 1956.

(*e*) "person" means—

(*i*) an individual who is a citizen of India ;

(*ii*) an association of individual or body of individuals, whether incorporated or not, whose members are citizens of India ;

(*iii*) a company in which not less than fifty-one persent of the paid-up share capital is held by the citizens of India ;

(*f*) "prescribed" means prescribed by rules made under this Ordinance ;

(*g*) "programme' means any television broadcast and includes—

(*i*) exhibition of films, features, dramas, advertisements and serials through video cassette recorders, or video cassette players ;

(*ii*) any audio or visual or audio-visual live performance or presentation,

and the expression "programming service" shall be construed accordingly ;

(*h*) "registering authority" means such authority as the Central Government may, by notification in the Official Gazette, specify to perform the functions of the registering authority under this Ordinance ;

(*i*) "subscriber" means a person who receives the signals of cable television network at a place indicated by him to the cable operator, without further transmitting it to any other person.

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CHAPTER–II

Regulation of cable television network

Cable television network not to be operated excetpt after registration.

3. No person shall operate a cable television network unless he is registered as a cable operator under this Ordinance :

Provided that a person operating a cable television network, immediately before the commencement of this Ordinance, may continue to do so for a period of ninety days from such commencement and if he has made an application for registration as a cable operator under section 4 within the said period, till he is registered under that section or the registering authority refuses to grant registration to him under that section.

Registration as cable operator.

4. (*1*) Any person who is operating or is desirous of operating a cable television network may apply for registration as cable operator to the registering authority.

(*2*) An application under sub-section (*1*) shall be made in such form and be accompanied by such fee as may be prescribed.

(*3*) On receipt of the application, the registering authority shall satisfy itself that the applicant has furnished all the required information and on being so satisfied, register the applicant as a cable operator and grant to him a certificate of such registration.

Provided that the registering authority may, for reasons to be recorded in writing and communicated to the applicant, reguse to grant registration to him if it is satisfied that he does not fulfil the condition specified in clause (*e*) of section 2.

Programme code.

5. No person shall transmit or re-transmit through a cable service any programme unless such programme is in conformity with the prescribed programme code:

Provided that nothing in this section shall apply to the programmes of foreign satellite channels which can be received without the use of any specialised gadgets or decoder.

Advertisement code.

6. No person shall transmit or transmit through a cable service any advertisement unless such advertisement is in conformity with the pescribed advertisement code:

Provided that nothing in this section shall apply to the programmes of foreign satellite channels which can be received without the use of any specialised gadgets or decoder.

Maintenance of register.

7. Every cable operator shall maintain a register in the prescribed form indicating therein in brief the programmes transmitted or re-transmitted through the cable service during a month and such register shall be maintained by the cable operator for a period of one year after the actual transmission or re-transmission of the said programmes.

Compulsory. transmission of two Doordarshan satellite channels.

8. (*1*) Every cable operator using a dish antenna or Television Receiver only shall, from the commencement of this Ordinance, re-transmit at least two Doordarshan satellite channels of his choice through the cable service.

(*2*) The Doordarshan channels refered to in Sub--section (1) shall be re-transmitted with out any deletion or alteration of any programme transmitted on such channels.

Use of standard equipment in cable television network

63 of 1986

9. No cable operator shall, on and from the date of the expiry of a period of three years from the date of the establishment and publication of the Indian Standard by the Bureau of Indian Standards in accordance with the provisions of the Bureau of Indian Standards Act, 1986, use any equipment in his cable television network unless such equipment conforms to the said Indian Standard.

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Cable television network not to interfere with any telecommunication system.

10. Every cable operator shall ensure that the cable television network being operated by him does not interfere, in any way, with the functioning of the authorised telecommunication systems.

CHAPTER III

Seizure and Confiscation of certain equipment

Power to seize equipment used for operating the cable television network.

11. (*1*) If any officer, not below the rank of a Group 'A' officer of the Central Government authorised in this behalf by the Government (hereinafter referred to as the authorised officer), has reason to believe that the provisions of section 3 have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network.

(*2*) No such equipment shall be retained by the authorised officer for a period exceeding ten days from the date of its seizure unless the approval of the District Judge within the local limits of whose jurisdiction such seizure has been made, has been obtained for such retention.

Confiscation.

12. The equipment seized under sub-section (*1*) of section 11 shall be liable to confiscation unless the cable operator from whom the equipment has been seized registers himself as a cable operator under section 4 within a period of thirty days from the date of seizure of the said equipment.

Seizure or confiscation of equipment not to interfere with other punishment.

13. No seizure or confiscation of equipment referred to in section 11 or section 12 shall prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of this Ordinance.

Giving of opportunity to the cable operator of seized equipment.

14. (*1*) No order adjudicating confiscation of the equipment referred to in section 12 shall be made unless the cable operator has been given a notice in writing, informing him of the grounds on which it is proposed to confiscate such equipment and giving him a reasonable opportunity of making a representation in writing, within such reasonable time as may be specified in the notice against the confiscation and if he so desires of being heard in the matter:

Provided that where no such notice is given within a period of ten days from the date of the seizure of the equipment, such equipment shall be returned after the expiry of that period to the cable operator from whose possession it was seized.

(*2*) Save as otherwise provided in sub-section (*1*), the provisions of the Code of Civil Procedure, 1903 shall, so far as may be, apply to every proceeding referred to in sub-section (*1*). 5 of 1903

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Appeal.

15. (*1*) Any person aggrieved by any decision of the court adjudicating a confiscation of the equipment may prefer an appeal to the court to which an appeal lies from the decision of such Court.

(*2*) The appellate court may, after giving the appellant an opportunity of being heard, pass such order as it thinks fit confirming, modifying or revising the decision appealed against or may send back the case with such directions as it may think fit for a fresh decision or adjudication, as the case may be, after taking additional evidence if necessary.

(*3*) No further appeal shall lie against the order of the court made under sub-section (*2*).

CHAPTER IV

Offences and Penalties

Punishment for contravention of the provisions of this Ordinance,

16. Whoever contravenes any of the provisions of this Ordinance shall be punishable,–

(*a*) for the first offence, with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both;

(*b*) for every subsequent offence, with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees.

Offences by companies.

17. (*1*) Where an offence under this Ordinance has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

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

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

Explanation.–For the purposes of this section,–

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

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

Cognizance of offences.

18. No court shall take cognizance of any offence punishable under this Ordinance except upon a complaint in writing made by such officer, not below the rank of a Group 'A' officer of the Central Government, as the State Government may, by notification in the Official Gazette, specify in this behalf.

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CHAPTER V

MISCELLANEOUS

Power to prohibit transmission of certain programmes in public interest.

19. Where an officer, not below the rank of a Group 'A' officer of the Central Government authorised by the State Government in this behalf, thinks it necessary or expedient so to do in the public interest, he may, by order, prohibit any cable operator from transmitting or retransmitting any paticular programme if it is likely to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, linguistic or regional groups or castes or communities or which is prejudicial to the maintenance of harmony between different religions, racial, language or regional groups or castes or communities and which disturbs or is likely to disturb the public tranquility.

Power to prohibit operation of cable television network in public interest.

20. Where the Central Government thinks it necessary or expedient so to do in the public interest, it may prohibit the operation of any cable television network in such areas as it may, by notification in the Official Gazette, specify in this behalf.

Application of other laws not barred.

21. The provisions of this Ordinance shall be in addition to, and not in derogation of the Drugs and Cosmetics Act, 1940, the Pharmacy Act, 1948, the Emblems and names (Prevention of Improper Use) Act, 1950, the Drugs (Control) Act, 1950, the Cinematograph Act, 1952, the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, the Prevention of Food Adulteration Act, 1954, the Prize Competitions Act, 1955, the Copyright Act, 1957, the Trade and Merchandise Marks Act, 1958, the Indecent Representation of women (Prohibition) Act, 1986 and the Consumer Protection Act, 1986.

23 of 1940.
8 of 1948.
12 of 1950.
26 of 1950.
37 of 1952.
21 of 1954.
37 of 1954.
42 of 1955.
14 of 1957.
43 of 1958.
60 of 1986.
68 of 1986.

Power to make rules.

22. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

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

(*a*) the form of application and the fee payable under sub-section (*2*) of section 4;

(*b*) the programme code under section 5;

(*c*) the advertisement code under section 6;

(*d*) the form of register to be maintained by a cable operator under section 7;

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

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(3) Every rule made under this Ordinance 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/-

SHANKER DAYAL SHARMA,
President.

Sd/-

A. C. C. UNNI,
Additional Secretary to the Government of India.

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

KUM. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, Dated 9th December, 1994.

No. RP/106/94/78/E.—The following ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 12th October, 1994 is republished for general information :—

GOVERNMENT OF INDIA
THE INDUSTRIAL DEVELOPMENT BANK OF INDIA (AMENDMENT) ORDINANCE, 1994.

(No. 11 of 1994) **(12th October, 1994)**

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

An Ordinance further to amend the Industrial Development Bank of India Act, 1964.

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 :—

1. (*1*) This Ordinance may be called the Industrial Development Bank of India (Amendment) Ordinance, 1994. Short title and commence-ment.

(*2*) It shall come into force at once.

18 of 1964. **2.** In section 2 of the Industrial Development Bank of India Act, 1964 (hereinafter referred to as the principal Act), for clause (*d*), the following clause shall be substituted, namely :— Amendment of section 2.

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'(d) "Industrial Finance Corporation" means the Industrial Finance Corporation of India Limited formed and registered under the Companies Act, 1956.'; 1 of 1956.

Substitution of section 4.

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

Authorised capital.

"4. (*1*) The authorised capital of the Development Bank shall be two thousand crores of rupees divided into one hundred and fifty crores fully paid-up equity shares of rupees ten each and, subject to provisions of section 4E, fifty crores of fully paid-up redeemable preference shares of rupees ten each.

(2) The Development Bank may, from time to time, by a resolution in general meeting, increase the authorised capital to an amount not exceeding five thousand crores of rupees consisting of such number of equity shares and redeemable preference shares as it deems fit.

Amendment of section 4A.

4. In section 4A of the principal Act, sub-section (2) shall be omitted.

Insertion of new sections 4C, 4D and 4E.

5. After section 4B of the principal Act, the following sections shall be inserted, namely:—

Issued Capital

"4C. (*1*) The issued capital of the Development Bank of seven hundred and fifty three crores of rupees which stands fully vested in and subscribed by the Central Government immediately before the commencement of the Industrial Development Bank of India (Amendment) Ordinance, 1994 shall, on such commencement stand divided into seventy five crores and thirty lakhs equity shares of rupees ten each.

(2) The Board may, from time to time, increase the issued equity share capital of the Development Bank by allotment of shares to such persons and on such terms and conditions as the Board may determine:

Provided that no increase in the issued equity capital shall be made in such a manner that the Central Government holds at any time less than fifty-one per cent. of the issued equity capital of the Development Bank.

Reduction of share capital.

4D. (*1*) The Development Bank may, by a resolution passed in a general meeting of the shareholders, reduce its share capital in any way.

(2) Without prejudice to the generality of the foregoing power, the share capital may be reduced by,—

(*a*) extinguishing for reducing the liability on any of its equity shares in respect of share capital not paid up;

(*b*) either with or without extinguishing or reducing liability on any of its equity shares, cancelling any paid up share capital which is lost, or is unrepresented by available assets; or

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(c) either with or without extinguishing or reducing liability on any of its equity shares, paying off any paid up share capital which is in excess of the wants of the Development Bank.

(*3*) In any general meeting referred to in sub-section (*1*), the resolution for reduction of share capital shall be passed by shareholders entitled to vote, voting in person, or, where proxies are allowed, by proxy, and the votes cast in favour of the resolution are not less than three times the number of the votes, if any, cast against the resolution by shareholders so entitled and voting.

Conversion of equity shares into redeemable preference shares.

4E. (*1*) The Central Government may, at any time after the commencement of the Industrial Development Bank of India (Amendment) Ordinance, 1994 by notification in the Official Gazette, convert such number of equity shares held by it not exceeding fifty crores as it may decide into redeemable preference shares.

(2) The redeemable preference shares referred to in sub-section (1) shall—

(*a*) carry such fixed rate of dividend as the Central Government may specify at the time of such conversion, and

(*b*) neither be transferable nor carry any voting rights.

(*3*) The redeemable preference shares referred to in sub-section (*1*) shall be redeemed by the Development Bank within three years from the date of such conversion in such instalments and in such manner as the Board may determine.".

Amendment of section 5.

5. In section 5 of the principal Act,—

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

"(*1*) The general superintendence, direction and management of the affairs and business of the Development Bank shall vest in a Board of Directors which may exercise all powers and do all such acts and things, as may be exercised or done by the Development Bank and are not by this Act expressly directed or required to be done by the Development Bank in general meeting.

(*2*) The Board may direct that any power exerciseable by it under this Act shall also be exerciseable in such cases and subject to such conditions, if any, as may be specified by it, by the chairman, managing director or the whole-time director.":

(*b*) sub-section (*4*) shall be omitted.

Amendment of section 6.

6. In section 6 of the principal Act,—

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

"(*1*) The Board shall consist of the following, namely:—

(*a*) a chairman and a managing director appointed by the Central Government:

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Provided that the same person may be appointed to function both as chairman and as managing director;

(*b*) one whole-time director appointed by the Central Government on the recommendation of the Board;

(*c*) two directors who shall be officials of the Central Government nominated by the Central Government;

(*d*) three directors from amongst persons having special knowledge of, and professional experience in. science, technology, economics, industry, banking, industrial cooperatives, law industrial finance, investment, accountancy, marketing or any other matter, the special knowledge of, and professional experience in, which would, in the opinion of the Central Government, be useful to the Development Bank, nominated by the Central Government; and

(*e*) such number of directors elected, in the prescribed manner, by shareholders other than the Central Government, whose names are entered on the register of shareholders of the Development Bank ninety days before the date of the meeting in which such election takes place on the following basis, namely:—

(*i*) where the total amount of equity share capital issued to such shareholders is ten per cent. or less of the total issued equity capital, two directors;

(*ii*) where the total amount of equity share capital issued to such shareholders is more than ten per cent. but less than twenty-five per cent. of the total issued equity capital, three directors; and

(*iii*) where the total equity share capital issued to such shareholders is twenty five per cent. or more of the total issued equity capital, four directors:

Provided that until the assumption of charge by the elected directors under clause (*e*), the Central Government may at anytime nominate such number of directors, not exceeding four, from amongst persons having special knowledge of, and professional experience in, science, technology, economics, industry, banking, industrial cooperatives, law, industrial finance, investment, accountancy, marketing or any other matter, the special knowledge of, and professional experience in, which would, in the opinion of the Central Government, be useful to the Development Bank for carrying out its functions.";

(*b*) in sub-sections (*2*) and (*3*), for the words "the chairman and the managing director", the words "the chairman, the managing director and the whole-time director" shall be substituted;

(*c*) in sub-sections (*2A*) and (*3A*), for the words "the chairman or the managing director" wherever they occur, the words "the chair-

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man, the managing director or the whole-time director" shall be substituted;

(*d*) for sub-section (*4A*), the following sub-section shall be substituted, namely:—

"(*4A*) Subject to the provisions of sub-section (*4*),—

(*a*) every director nominated under clause (d) of sub-section (1) shall hold office for such term not exceeding three years as the Central Government may specify in this behalf and thereafter until his successor assumes office, and shall be eligible for re-nomination:

Provided that no such director shall hold office continuously for a period exceeding six years; and

(*b*) every director elected under clause (*e*) of sub-section (*1*) shall hold office for such term not exceeding until his successor assumes office, and shall be eligible for re-election:

Provided further that no such director shall hold office continuously for a period exceeding six years;";

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

"(*4B*) The shareholders other than the Central Government, may, after giving to the director a reasonable opportunity of being heard in the manner as may be prescribed, by resolution passed by majority of the votes of such shareholders holding in the aggregate not less than one-half of the share capital held by such shareholders, remove any director elected under clause (*e*) of sub-section (*1*) and elect another director in his place to fill the vacancy so caused.";

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

"(*5*) (*i*) A meeting of the Board shall be held at least once every three months and atleast four meetings shall be held every year and the meetings may be held at such places as may be prescribed;

(*ii*) Notice of every meeting of the Board shall be given in writing to every director for the time being in India, and at his usual address in India to every other director.

(*5A*) Subject to the provisions contained in this Chapter, the Board may meet at such times and places and shall observe such rules of procedure in regard to transaction of its business including the manner of adoption of resolutions as may be prescribed.".

7. Section 6A of the principal Act shall be omitted. Omission of section 6A.

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Insertion of new sections 6B and 6C.

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

Disqualifications of directors.

"6B. (1) A person shall not be eligible for being elected director under clause (*e*) of sub-section (1) of section 6, if he—

(*a*) has been found to be of unsound mind by a court of competent jurisdiction and the finding is in force;

(*b*) is an undischarged insolvent;

(*c*) has applied to be adjudicated as an insolvent and his application is pending;

(*d*) has been convicted by a court of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence; or

(*e*) has not paid any call in respect of shares of the Development Bank held by him, whether alone or jointly with others, and six months have elapsed from the last day fixed for the payment of the call.

Vacation of office by director.

6C. (1) The office of a director shall become vacant if he—

(*a*) becomes subject to any of the disqualifications mentioned in section 6B; or

(*b*) resigns his office by giving notice in writing under his hand and the resignation is accepted; or

(*c*) absents himself from three consecutive meetings of the Board without obtaining leave of absence from the Board.

(2) Notwithstanding anything in clause (*a*) of sub-section (1), the disqualifications referred to in that clause shall not take effect—

(*a*) for thirty days from the date of the adjudication, sentence or order;

(*b*) where any appeal or petition is preferred within thirty days aforesaid against the adjudication, sentence or conviction resulting in the sentence or order until the expiry of seven days from the date on which such appeal or petition is disposed of; or

(*c*) where within the seven days aforesaid, any further appeal or petition is preferred in respect of the adjudication, sentence, conviction or order and the appeal or petition, if allowed, would result in the removal of the disqualification, until such further appeal or petition is disposed of.".

Amendment of section 7.

9. In section 7 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Board shall constitute an Executive Committee consisting of the chairman, the Managing Director, whole-time director and such other directors as it may deem fit.".

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Amendment of section 8.

10. In section 8 of the principal Act, for the proviso, the following proviso shall be substituted, namely:—

"Provided that no fees shall be payable to the chairman, if he is appointed whole-time, or to the managing director or to the whole-time director or to any other director who is an official of the Government."

Amendment of section 9.

11. In section 9 of the principal Act, in sub-section (*1*), in clauses (*a*), (*c*), (*ca*), (*f*) and (*g*), for the words "which may be notified by the Central Government in this behalf", wherever they occur, the words" which may be approved by the Board in this behalf" shall be substituted.

Amendment of section 11.

12. In section 11 of the principal Act, in sub-section (*1*),—

(*a*) in clause (*c*), for the words "the Central Government", the words "the Board" shall be substituted;

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

"(*d*) accept deposits on such terms as may be approved by the Board.".

Amendment of section 12.

13. In section 12 of the principal Act, sub-section (*3*) and (*4*) shall be omitted.

Insertion of new Chapters IV-A and IV-B.

14. After section 13 of the principal Act, the following shall be inserted, namely:—

"CHAPTER IV-A

SHARES

Free transferability of shares.

13A. (*1*) Save as otherwise provided in sub-section (2), the equity shares of the Development Bank shall be freely transferable.

(2) Nothing contained in sub-section (*1*) shall entitle the Central Government to transfer any shares held by it in the Development Bank if such transfer will result in reducing the equity shares held by it to less than fifty-one per cent. of the issued equity capital of the Development Bank.

Register of shareholders.

13B. (*1*) The Development Bank shall keep at its head office a register, in one or more books, of the shareholders and shall enter therein the following particulars so far as they may be available:—

(*i*) the names, addresses and occupations, if any, of the shareholders and a statement of the shares held by each shareholder, distinguishing each share by its denoting number;

(*ii*) the date on which each person is so entered as a shareholder;

(*iii*) the date on which any person ceases to be a shareholder; and

(*iv*) such other particulars as may be prescribed.

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(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for the Development Bank to keep the register of the shareholders in computer floppies or diskettes subject to such safeguards as may be prescribed.

(3) Notwithstanding anything contained in the Indian Evidence Act, 1872, a copy of, or extract from, the register of shareholders, certified to be a true copy under the hand of an officer of the Development Bank authorised in this behalf, shall, in all legal proceedings, be admissible in evidence. 1 of 1872.

Trust not to be entered on the register of shareholders.

13C. Notwithstanding anything contained in section 13B, no notice of any trust, express, implied or constructive, shall be entered on the register of shareholders or be receivable by the Development Bank.

Board's right to refuse registration of transfer of shares.

13D. (1) The Board may refuse to register the transfer of any shares in the name of the transferee on any one or more of the following grounds, and on no other ground, namely:—

(a) the transfer of the shares is in contravention of the provisions of this Act or regulations made thereunder or any other law;

(b) the transfer of the shares, in the opinion of the Board, is prejudicial to the interests of the Development Bank or to the public interest;

(c) the transfer of shares is prohibited by an order of a court, tribunal or any other authority under any law for the time being in force.

(2) The Board shall, before the expiry of two months from the date on which the instrument of transfer of shares of Development Bank is lodged with it for the purpose of registration of such transfer, not only form, in good faith, its opinion as to whether such registration ought not or ought to be refused on any of the grounds referred to in sub-section (1) but also,—

(a) if it has formed the opinion that such registration ought not be so refused, effect such registration; and

(b) if it is has formed the opinion that such registration ought to be refused on any of the grounds mentioned in sub-section (1), intimate the transferor and the transferee by notice in writing.

(3) An appeal against the order or refusal of the Board under sub-section (2) shall lie to the Central Government and the procedure for filing and hearing of such appeal shall be in accordance with the rules made by the Central Government in this behalf.

Shares to be securities under Indian Trusts Act, 1882.

13E. Notwithstanding anything contained in the Indian Trusts Act, 1882, the shares of the Development Bank shall be deemed to be included among the securities enumerated in section 20 of the said Act. 2 of 1882.

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CHAPTER IV-B

MEETINGS AND PROCEEDINGS

Annual general meeting.

13F. (*1*) The Development Bank shall in each year hold. in addition to any other meetings, a general meeting as its annual general meeting and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one annual general meeting and that of the next:

Provided that the Development Bank may hold the first annual general meeting within a period of six months from the date on which it allots shares for the first time to public for subscription:

Provided further that the Central Government may extend the time within which any annual general meeting shall be held by a period not exceeding three months.

(2) Every annual general meeting shall be called for a time during business hours, on a day that is not a public holiday, and shall be held either at head office or at some other place within the city or town in which the head office is situate.

Explanation.—For the purposes of this section, "public holiday" means a public holiday within the meaning of the Negotiable Instruments Act, 1881:

26 of 1881.

Provided that no Sunday shall be deemed to be such a holiday in relation to any meeting:

Provided further that no day declared by the Central Government to be a public holiday shall be deemed to be such a holiday, in relation to any meeting, unless the declaration was notified before the issue of the notice convening such meeting.

Restriction on exercising of voting right.

13G. Every shareholder of the Development Bank holding equity shares shall have a right to vote in respect of such shares on every resolution and his voting right on a poll shall be in proportion to his share of the paid up equity capital of the Development Bank:

Provided however, that no shareholder, other than the Central Government shall be entitled to exercise voting rights in respect of any equity shares held by him in excess of ten per cent. of the issued equity capital.

Matters to be discussed and procedure in annual general meeting.

13H.(*1*) The shareholders present at an annual general meeting shall be entitled to discuss and adopt—

(a) the balance sheet and profit and loss account of the Development Bank made up to the date on which its accounts are closed and balanced;

(b) the report of working of the Development Bank for the period covered by the accounts;

(c) the auditor's report on the balance sheet and accounts;

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(d) proposals for declaration of dividend and capitalisation of reserves.

(2) The share-holders present at an annual general meeting may also discuss any other matter to be transacted at such meetings in accordance with the provisions of this Act.

(3) The matters relating to—

(a) the manner in which annual general meeting or other meetings are held under this Act and the procedure to be followed thereat;

(b) the manner in which voting rights may be exercised and resolutions may be passed; and

(c) the procedure for transaction of business at such meetings and related matters,

shall be as may be prescribed.".

Amendment of section 18.

15. In section 18 of the principal Act, in sub-section (3), for the words Central Government", the words "Developmest Bank" shall be substituted.

Amendment of section 22.

16. In section 22 of the principal Act, in sub-section (2), the following sub-section shall be substituted, namely:—

"(2) After making provision for bad and doubtful debts, depreciation of asset sand for all other matters for which provision is necessary or expedient or which is usually provided for by bankers and for the reserve fund referred to in sub-section (1), and after transferring a part of the profits to such other reserves or funds as may be considered appropriate, the Board may, out of its net profits, declare a dividend.".

Amendment of section 23.

17. (1) In section 23 of the principal Act,—

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

"(1) The accounts of the Development Bank shall be audited by auditors duly qualified to ait as auditors under sub-section (1) of section 226 of the Companies Act, 1956 who shall be appointed by the Development Bank in general meeting of the shareholders out of the panel of auditors approved by the Reserve Bank for such term and on such remuneration as the Reserve Bank may fix.". 1 of 1956.

(b) in sub-section (5), for the words "within four months from the date on which its accounts are closed and balanced", the words "within one month from the date on which the annual general meeting is held" shall be substituted.

Insertion of new section 32A.

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

Nomination in respect of deposits, bonds, etc.

"32A. (1) Notwithstanding anything contained in any other law for the time being in force, where a nomination in respect of any deposits, bonds or other securities is made in the prescribed manner, the amount due on such deposits, bonds or securities shall, on the death of the depositor or holder thereof, best in, and be payable to, the nominee sub-

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ject to any right, title or interest of any other person to such deposits, bonds or securities.

(2) Any payment by the Development Bank in accordance with the provisions of sub-section (1) shall constitute a full discharge to the Development Bank of its liability in respect of such deposits, bonds or securities.".

Amendment of section 37.

19. In section 37 of the principal Act,—

(*a*) in sub-section (*2*),—

(*i*) in clause (*a*), the words "and the manner of adoption of resolutions" shall be inserted at the end;

(*ii*) after clause (*da*), the following clauses shall be inserted, namely:—

"(*db*) the manner in which and the conditions subject to which shares may be held and transferred;

(*dc*) matters relating to the rights of shareholders;

(*dd*) the maintenance of share registers and the particulars to be entered therein;

(*de*) the safeguards to be observed in the maintenance of register of shareholders on computer floppies or diskettes;

(*df*) the inspection and closure of the registers and all other matters connected therewith;

(*dg*) the holding and conduct of elections of directors under this Act and the determination of disputes regarding the qualification of directors;

(*dh*) the manner in which general meetings shall be convened, the procedure to be followed thereat, the manner in which voting rights may be exercised, resolutions passed and business transacted in such meetings and other matters relating to meetings;

(*di*) the manner in which notices may be served on shareholders or other persons;

(*dj*) the manner in which nomination may be made in terms of section 32A;";

(*b*) for sub-section (*4*), the following shall be substituted, namely:—

"(*4*) Every regulation or 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 regulation or rule

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

Sd/-
SHANKER DAYAL SHARMA,
President.

A. C. C. UNNI,
Additional Secretary to the Govt. of Ind

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

Sd/-
Kum. H. K. Jhaveri,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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