

Regd. No. NE 907



The Mizoram Gazette

EXTRA ORDINARY

Published by Authority

Vol. XXII Aizawl, Tuesday, 16. 3. 93, Phalguna 25, S.E. 1914 Issue No. 49

NOTIFICATION

No. H. 12018/4/91-LJD/430-437, the 5th March, 1993. The following Ordinances are hereby published for general information.

Rolura Sailo,
Deputy Secy. to the Govt. of Mizoram,
Law, Judicial & Parliamentary Affairs Department.

THE WILD LIFE (PROTECTION) AMENDMENT ORDINANCE, 1993

No. 7 OF 1993

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

An Ordinance further to amend the Wild Life (Protection) Act, 1972.

WHEREAS the Wild Life (Protection) Amendment Ordinance 1992 to provide for the aforesaid matter was promulgated by the President on the 23rd day of October, 1992;

AND WHEREAS the Wild Life Protection (Amendment) Bill, 1992 was introduced in the House of the People to replace the said Ordinance, but has not been passed;

AND 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 Wild Life (Protection) Amendment Ordinance, 1993. Short title and commencement.
- (2) It shall be deemed to have come into force on the 4th day of August, 1992.

Amendment 2. In the Wild Life (Protection) Act, 1972 (hereinafter referred to as the principal Act), in the proviso to section 38H of Act 53 of 1972, sub-section (1) of section 38H, for the words "six months from the date of such commencement", the words "eighteen months from the date of such commencement" shall be substituted.

- Repeal and saving 3. (1) The Wild Life (Protection) Amendment Ordinance, 1992 is hereby repealed. Ord. 20 of 1992
- (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 Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

THE INDIAN MEDICAL COUNCIL (AMENDMENT)
ORDINANCE, 1993
No. 2 OF 1993

Promulgated by the President in the Forty-third Year
of the Republic of India

An Ordinance further to amend the Indian Medical
Council Act, 1956.

WHEREAS the Indian Medical Council (Amendment) Ordinance, 1992, to provide for the aforesaid matter was promulgated by the President on the 27th day of August, 1992 ;

AND WHEREAS the Indian Medical Council (Amendment) Bill, 1992 to replace the said Ordinance has been passed by the Council of States and is pending in the House of the People ;

AND 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 Indian Medical Council (Amendment) Ordinance, 1993. Short title and commencement.

(2) It shall be deemed to have come into force on the 27th day of August, 1992.

Insertion of new sections 10A, 10B and 10C.

Permission for establishment of new medical college, new course of study, etc.

2. After section 10 of the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), the following sections shall be inserted namely :- 102 of 1956.

10A. (1) Notwithstanding anything contained in this Act or any other law for the time being in force,—

- (a) no person shall establish a medical college; or
- (b) no medical college shall—

(i) open a new or higher course of study or training (including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the award of any recognised medical qualification ; or

(ii) increase its admission capacity in any course of study or training (including a post-graduate course of study or training),

except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

Explanation 1—For the purposes of this section “person” includes any University or a trust but does not include the Central Government.

Explanation 2—For the purposes of this section, “admission capacity”, in relation to any course of study or training (including post-graduate course of study or training) in a medical college means the maximum number of students that may be fixed by the Council from time to time for being admitted to such course or training.

(2) (a) Every person or medical college shall, for purpose of obtaining permission under sub-section (1), submit to the Central Government a scheme in accordance with the provisions of clause (b) and the Central Government shall refer the scheme to the Council for its recommendations.

(b) The scheme referred to in clause (a) shall be in such form and contain such particulars and be preferred in such manner and be accompanied with such fee as may be prescribed.

(3) On receipt of a scheme by the Council under sub-section (2) the Council may obtain such other particulars as may be considered necessary by it from the person or the medical college concerned and thereafter, it may,—

(a) if the scheme is defective and does not contain any necessary particulars, give a reasonable opportunity to the person or college concerned for making a written representation and it shall be open to such person or medical college to rectify the defects, if any, specified by the Council ;

(b) consider the scheme, having regard to the factors referred to in sub-section (7), and submit the scheme together with its recommendations thereon to the Central Government.

(4) The Central Government may, after considering the scheme and the recommendations of the Council under sub-section (3) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person or college concerned and having regard to the factors referred to in sub-section (7), either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme and any such approval shall be a permission under sub-section (1) :

Provided that no scheme shall be disapproved by the Central Government except after giving the person or college concerned a reasonable opportunity of being heard :

Provided further that nothing in this sub-section shall prevent any person or medical college whose scheme has not been approved by the Central Government to submit a fresh scheme and the provisions of this section shall apply to such scheme, as if such scheme has been submitted for the first time under sub-section (1).

(5) Where, within a period of one year from the date of submission of the scheme to the Central Government under sub-section (1), no order passed by the Central Government has been communicated to the

person or college submitting the scheme, such scheme shall be deemed to have been approved by the Central Government in the form in which it had been submitted, and, accordingly, the permission of the Central Government required under sub-section (1) shall also be deemed to have been granted.

(6) In computing the time-limit specified in sub-section (5), the time taken by the person or college concerned submitting the scheme, in furnishing any particulars called for by the Council, or by the Central Government shall be excluded.

(7) The Council, while making its recommendations under clause (b) of sub-section (3) and the Central Government, while passing an order, either or disapproving the scheme under sub-sec (4), all have due regard to the following factors, namely :—

(a) Whether the proposed medical college or the existing medical college seeking to open a new or higher course of study or training would be in a position to offer the minimum standards of medical education as prescribed by the Council under section 19 A or, as the case may be, under section 20 in the case of post graduate medical education ;

(b) Whether the person seeking to establish a medical college or the existing medical college seeking to open a new or higher course of study or training or to increase its admission capacity has adequate financial resources ;

(c) Whether necessary facilities in respect of staff, equipment, accommodation, training and other facilities to ensure proper functioning of the medical college or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme ;

(d) Whether adequate hospital facilities, having regard to the number of students likely to attend such medical college or course of study or training or as a result of the increased admission capacity, have been provided or would be provided within the time-limit specified in the scheme ;

(e) Whether any arrangement has been made or programme students

likely to attend such medical college or course of study or training by persons having the recognised medical qualifications:

(f) the requirement of manpower in the field of practice of medicine: and

(g) any other factors as may be prescribed.

(8) Where the Central Government passes an order either approving or disapproving a scheme under this section, a copy of the order shall be communicated to the person or college concerned.

Non-recognition of medical qualifications in certain cases.

10B. (1) Where any medical college is established except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any student of such medical college shall be a recognised medical qualification for the purposes of this Act.

(2) Where any medical college opens a new or higher course of study or training (including a post graduate course of study or training) except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any student of such medical college on the basis of such study or training shall be a recognised medical qualification for the purposes of this Act.

(3) Where any medical college increases its admission capacity in any course of study or training except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any student of such medical college on the basis of the increase in its admission capacity shall be a recognised medical qualification for the purposes of this Act.

Explanation.-For the purposes of this section, the criteria for identifying a student who has been granted a medical qualification on the basis of such increase in the admission capacity shall be such as may be prescribed.

Time for seeking permission for certain existing medical colleges etc.

10C. (1) If, after the 1st day of June, 1992 and on and before the commencement of the Indian Medical Council (Amendment) Ordinance, 1992 any person has established a medical college or any medical college has opened a new or higher course of study or training or increase the admission capacity, such person or medical

Ord. 13
of 1992.

college as the case may be, shall seek, within a period of one year from the commencement of the Indian Medical Council (Amendment) Ordinance, 1992, the permission of the Central Government in accordance with the provision of section 10A.

(2) If any person or medical college, as the case may be, fails to seek the permission under sub-section (1), the provisions of section 10B shall apply, so far as may be, as if, permission of the Central Government under section 10A has been refused:

Amend-
ment of
section 33.

3. In section 33 of the principal Act, after clause (f), the following clauses shall be inserted, namely :—

(fa) the form of the scheme, the particulars to be given in such scheme, the manner in which the scheme is to be preferred and the fee payable with the scheme under clause (b) of sub-section (2) of section 10A;

(fb) any other factors under clause (g) of sub-section (7) of section 10A;

(fc) the criteria for identifying a student who has been granted a medical qualification referred to in the Explanation to sub-section (3) of section 10B.

Ord. 13
of 1992.

4. (1) The Indian Medical Council (Amendment) Ordinance, 1992 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 Ordinance.

Shanker Dayal Sharma,
President.

K.L. Mohanpuria,
Secy. to the Govt. of India.

THE DENTISTS (AMENDMENT) ORDINANCE, 1993

No. 3 OF 1993

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

An Ordinance further to amend the Dentists Act, 1948.

WHEREAS the Dentists (Amendment) Ordinance 1992 to provide for the aforesaid matter was promulgated by the President on the 27th day of August, 1992.

AND WHEREAS the Dentists (Amendment) Bill, 1992 to replace the said Ordinance has been passed by the Council of States and is pending in the House of the People;

AND 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 Dentists (Amendment) Ordinance, 1993. Short title and commencement..
- (2) It shall be deemed to have come into force on the 27th day of August, 1992.

Insertion of 2. After section 10 of the Dentists Act, 1948 16 of 1948.
new sections (hereinafter referred to as the principal Act), the follow-
10A, 10B ing sections shall be inserted, namely:—
and 10G.

Permission '10A. (1) Notwithstanding anything contained in
for establish- this Act or any other law for the time being in force,—
ment of new

dental college, (a) no person shall establish an authority or insti-
new courses tution for a course of study or training (including a post-
of study, graduate course of study or training) which would enable
etc. a student of such course or training to qualify himself
for the grant of recognised dental qualification; or

(b) no authority or institution conducting a course of study or training (including a post-graduate course of study or training) for grant of recognised dental qualification shall—

(i) open a new or higher course of study or training (including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the award of any recognised dental qualification; or

(ii) increase its admission capacity in any course of study or training (including a post-graduate course of study or training),

except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

Explanation 1.—For the purposes of this section, “person” includes any University or a trust but does not include the Central Government.

Explanation 2.—For the purposes of this section, “admission capacity”, in relation to any course of study or training (including a post-graduate course of study or training) in an authority or institution granting recognised dental qualification, means the maximum number of students that may be fixed by the Council from time to time for being admitted to such course or training.

(2) (a) Every person, authority or institution granting recognised dental qualification shall, for the purpose of obtaining permission under sub-section (1), submit to the Central Government a scheme in accordance with the provisions of clause (b) and the Central Government shall refer the said scheme to the Council for its recommendations.

(b) The scheme referred to in clause (a) shall be in such form and contain such particulars and be preferred in such manner and be accompanied with such fee as may be prescribed.

(3) On receipt of a scheme by the Council under sub-section (2), the Council may obtain such other particulars as may be considered necessary by it from the person, authority or institution concerned, granting recognised dental qualification and thereafter, it may,—

(a) if the scheme is defective and does not contain any necessary particulars, give a reasonable opportunity to the person, authority or institution concerned for making a written representation and it shall be open to such person, authority or institution to rectify the defects, if any, specified by the Council;

(b) consider the scheme, having regard to the factors referred to in sub-section (7), and submit the scheme together with its recommendations thereon to the Central Government.

(4) The Central Government may, after considering the scheme and the recommendations of the Council under sub-section (3) and after obtaining where necessary,

such other particulars as may be considered necessary by it from the person, authority or institution concerned, and having regard to the factors referred to in sub-section (7), either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme and any such approval shall be a permission under sub-section (1) :

Provided that no scheme shall be disapproved by the Central Government except after giving the person, authority or institution concerned granting recognised dental qualification a reasonable opportunity of being heard:

Provided further that nothing in this sub-section shall prevent any person, authority or institution whose scheme has not been approved to submit a fresh scheme and the provisions of this section shall apply to such scheme, as if such scheme has been submitted for the first time under sub-Section (1).

(5) Where, within a period of one year from the date of submission of the scheme to the Central Government under sub-section (1), no order passed by the Central Government has been communicated to the person, authority or institution submitting the scheme, such scheme shall be deemed to have been approved by the Central Government in the form in which it had been submitted, and, accordingly, the permission of the Central Government required under sub-section (1) shall also be deemed to have been granted.

(6) In computing the time-limit specified in sub-section (5), the time taken by the person, authority or institution concerned submitting the scheme in furnishing any particulars called for by the Council or by the Central Government, shall be excluded.

(7) The Council, while making its recommendations under clause (b) of sub-section (3) and the Central Government, while passing an order either approving or disapproving the scheme under sub-section (4), shall have due regard to the following factors, namely :-

(a) whether the proposed authority or institution for grant of recognised dental qualification or the existing authority or institution seeking to open a new or higher course of study or training would be in a position to offer the minimum standards of dental education in conformity with the requirements referred to in section 16A and the regulations made under sub-section (1) of section 20;

(b) whether the person seeking to establish an authority or institution or the existing authority or institution seeking to open a new or higher course of study or training or to increase its admission capacity has adequate resources ;

(c) whether necessary facilities in respect of staff, equipment, accommodation, training and other facilities to ensure proper functioning of the authority or institution or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme ;

(d) whether adequate hospital facilities, having regard to the number of students likely to attend such authority or institution or course of study or training or as a result of the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme ;

(e) whether any arrangement has been made or programme drawn to impart proper training to students likely to attend such authority or institution or course of study or training by persons having the recognised dental qualification ;

(f) the requirement of manpower in the field of practice of dentistry ; and

(g) any other factors as may be prescribed.

(8) Where the Central Government passes an order either approving or disapproving a scheme under this section, a copy of the order shall be communicated to the person, authority or institution concerned.

Non-recognition of dental qualifications in certain cases.

10B (1) Where any authority or institution is established for grant of recognised dental qualification except with the previous permission of the Central Government in accordance with the provisions of section 10A, no dental qualification granted to any student of such authority or institution shall be a recognised dental qualification for the purposes of this Act.

(2) Where any authority or institution granting recognised dental qualification opens a new or higher course of study or training (including a post-graduate course of study or training) except with the previous permission of the Central Government in accordance with the provisions of section 10A, no dental qualification

granted to any student of such authority or institution on the basis of such study or training shall be a recognised dental qualification for the purposes of this Act.

(3) Where any authority or institution granting recognised dental qualification increases its admission capacity in any course of study or training (including a post-graduate course of study or training) except the previous permission of the Central Government in accordance with the provisions of section 10A, no dental qualification granted to any student of such authority or institution on the basis of the increase in its admission capacity shall be a recognised dental qualification for the purposes of this Act.

Explanation.—For the purposes of this section, the criteria for identifying a student who has been granted a dental qualification on the basis of such increase in the admission capacity shall be such as may be prescribed.

10C (1) If, after the 1st day of June, 1992 and on and before the commencement of the Dentists (Amendment Ordinance, 1992) any person has established an authority or institution for grant of recognised dental qualification or any authority or institution granting recognised dental qualification has opened a new or higher course of study or training (including a post-graduate course of study or training) or increased its admission capacity, such person, authority or institution as the case may be, shall seek, within a period of one year from the commencement of the Dentists (Amendment Ordinance, 1992, the permission of the Central Government in accordance with the provisions of section 10A.

Time for seeking permission for certain existing authorities.

Ord. 14 of 1992.

(2) If any person or, as the case may be, any authority or institution granting recognised dental qualification fails to seek the permission under sub-section (1), the provisions of section 10B shall apply, so far as may be, as if permission of the Central Government under section 10A has been refused.

3. In section 20 of the principal Act, in sub-section (2), after clause (f), the following clauses shall be inserted, namely :—

“(fa) prescribe the form of the scheme, the particulars to be given in such scheme, the manner in which the scheme is to be preferred and the fee payable with the scheme under clause (b) of sub-section (2) of section 10A;

(fb) prescribe any other factors under clause (g) of sub-section (7) of section 10A;

(fc) prescribe the criteria for identifying a student who has been granted a dental qualification referred to in the Explanation to sub-section (3) of section 10B”.

Ord. 14 of 1992. 4 (1) The Dentists (Amendment) Ordinance, 1992 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 Ordinance.

Shanker Dayal Sharma,
President.

K. L. Mohanpuria,
Secy. to the Govt. of India.

THE INTEREST ON DELAYED PAYMENTS TO SMALL SCALE AND ANCILLARY INDUSTRIAL UNDERTAKINGS ORDINANCE 1993

No. 4 OF 1993

Promulgated by the President in the Fortythird Year of the Republic of India.

An Ordinance to provide for and regulate the payment of interest on delayed payments to small scale and ancillary industrial undertakings and for matters connected therewith or incidental thereto.

WHEREAS the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1992 to provide for the aforesaid matters was promulgated by the President on the 23rd day of September, 1992;

AND WHEREAS the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Bill, 1992 was introduced in the House of the People to replace the said Ordinance, but has not been passed;

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

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

Short title, extent and commencement 1. (1) This ordinance may be called the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings, Ordinance 1993.

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

(3) It shall be deemed to have come into force on the 23rd day of September, 1992.

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

(a) “ancillary industrial undertaking” has the meaning assigned to it by clause (aa) of section 3 of the Industries (Development and Regulation) Act, 1951;

65 of 1951

(b) “appointed day” means the day following immediately after the expiry of the period of thirty days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier;

Explanation.—For the purposes of this clause,—

(i) “the day of acceptance” means,—

(a) the day of the actual delivery of goods or the rendering of services; or

(b) Where any objection is made in writing by the buyer regarding acceptance of goods or services within thirty days from the day of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier;

(ii) “the day of deemed acceptance” means, where no objection is made in writing by the buyer regarding acceptance of goods or services within thirty days from the day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services;

(c) “buyer” means whoever buys any goods or receives any services from a supplier for consideration;

(d) "goods" means every kind of movable property other than actionable claims and money;

(e) "small scale industrial undertaking" has the meaning assigned to it by clause (j) of section 3 of the Industries (Development and Regulation) Act, 1951; 65 of 1951.

(f) "supplier" means an ancillary Industrial undertaking or a small scale Industrial undertaking holding a permanent registration certificate issued by the Directorate of Industries of a State or Union Territory.

Liability of
buyer to
make pay-
ment

3. Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day.

4. Where any buyer fails to make payment of the amount to the supplier, as required under section 3, the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay interest to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at such rate which is five per cent points above the floor rate for comparable lending. Date from which and rate at which interest is payable.

Explanation.—For the purposes of this section, "floor rate for comparable lending" means the highest of the minimum lending rates charged by scheduled banks (not being co-operative banks) on credit limits in accordance with the directions given or issued to banking companies generally by the Reserve Bank of India under the Banking Regulation Act, 1949.

10 of 1949.

5. Notwithstanding anything contained in any agreement between a supplier and a buyer or in any law for the time being in force, the buyer shall be liable to pay compound interest (with monthly rests) at the rate mentioned in section 4 on the amount due to the supplier. Liability of buyer to pay compound interest.

6. The amount due from a buyer, together with the amount of interest calculated in accordance with the provisions of section 4 and 5 shall be recoverable by the supplier from the buyer by way of a suit or other proceeding under any law for the time being in force. Recovery of amount due.

7. No appeal against any decree, award or other order shall be entertained by any court or other authority unless the appellant (not being a supplier) has deposited. Appeal.

sited with it seventy-five per cent of the amount in terms of the decree, award or, as the case may be, other order in the manner directed by such court or, as the case may be, such authority.

8. Where any buyer is required to get his annual accounts audited under any law for the time being in force, such buyer shall specify the amount together with the interest in his annual statement of accounts as remains unpaid to any supplier at the end of each accounting year.

Requirement to specify unpaid amount with interest in the annual statement of accounts.

43 of 1961

9. Notwithstanding anything contained in the Income-tax Act, 1961, the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Ordinance, shall not, for the purposes of computation of income under that Act, be allowed as deduction.

Interest not to be allowed as deduction from income.

10. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Overriding effect.

Repeal and saving.

11. (1) The Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertaking Ordinance 1992 is hereby repealed.

Ord. 15 of 1992.

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

Shanker Dayal Sharma,
President.

K.L. Mohanpuria,
Secy. to the Govt. of India,

THE INDUSTRIAL FINANCE CORPORATION (TRANSFER OF UNDERTAKING AND REPEAL) ORDINANCE, 1993.

No. 5 of 1993

Promulgated by the President in the Forty-third Year of the Republic of India

An Ordinance to provide for the transfer and vesting of the undertaking of the Industrial Finance Corporation of India to and in the Company to be formed and registered as a Company under the Com-

panies Act, 1956, and for matters connected therewith or incidental thereto and also to repeal the Industrial Finance Corporation Act, 1948.

WHEREAS the Industrial Finance Corporation (Transfer of undertaking and Repeal) Ordinance, 1992, to provide for the aforesaid matters was promulgated by the President on the 1st day of October, 1992.

AND WHEREAS the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Bill, 1992 was introduced in the House of the People to replace the said Ordinance, but has not been passed.

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

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

Short title
and com-
mencement

1. (1) This Act may be called the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Ordinance, 1993.

(2) It shall be deemed to have come into force on the 1st day of October, 1992.

Definitions.

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

(a) "appointed day" means such date as the Central Government may, by notification in the Official Gazette, appoint under section 3.

(b) "Company" means the Industrial Finance Corporation of India Limited to be formed and registered under the Companies Act, 1956;

(c) "Corporation" means the Industrial Finance Corporation of India established under sub-section (1) of section 3 of the Industrial Finance Corporation Act, 1948;

1 of 1956.

15 of 1948.

Underta-
king of the
Corpora-
tion to vest
in the Com-
pany.

3. On such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be transferred to, and vest in the Company the undertaking of the Corporation.

General effect of vesting of undertaking in the company.

4. (1) Every shareholder of the Corporation immediately before the appointed day shall be deemed to be registered on and from the appointed day as a shareholder of the Company to the extent of the face value of the shares held by such shareholder.

(2) The undertaking of the Corporation which is transferred to and which vests in the Company under section 3 shall be deemed to include all business, assets, rights, powers, authorities and privileges and all properties, movable and immovable, real and personal, corporeal and incorporeal, in possession or reservation, present or contingent of whatever nature and wheresoever situate including lands, buildings, vehicles, cash balances, deposits, foreign currencies, disclosed and undisclosed reserves, reserve fund, special reserve fund, benevolent reserve fund, any other fund, stocks, investments, shares, bonds, debentures, security, management of any industrial concern, loans, advances and guarantees given to industrial concerns, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of the Corporation in relation to it, undertaking, within or without India, all books of accounts, registers, records and documents relating thereto and shall also be deemed to include all borrowings liabilities and obligations of whatever kind within or without India then subsisting of the Corporation in relation to its undertaking.

(3) All contracts, deeds, bonds, guarantees, powers of attorney, other instruments and working arrangements subsisting immediately before the appointed day and affecting the Corporation shall cease to have effect or to be enforceable against the Corporation and shall be of as full force and effect against or in favour of the Company in which the undertaking of the Corporation has vested by virtue of this Ordinance and enforceable as fully and effectually as if instead of the Corporation, the Company had been named therein or had been a party thereto.

(4) Any proceeding or cause of action pending or existing immediately before the appointed day by or against the Corporation in relation to its undertaking may, as from the appointed day, be continued and enforced by or against the Company in which the undertaking of the Corporation has vested by virtue of this Ordinance as it might have been enforced by or against

the Corporation if this Ordinance had not been promulgated and shall cease to be enforceable, by or against the Corporation.

(5) With effect from the appointed day, all fiscal and other concessions, licences, benefits, privileges and exemptions granted to the Corporation in connection with the affairs and business of the Corporation under any law for the time being in force shall be deemed to have been granted to the Company.

Concession, etc. to be deemed to have been granted to the Company.

6. (1) Where any exemption from, or any assessment with respect to, any tax has been granted or made or any benefit by way of set off or carry forward of any unabsorbed depreciation or investment allowance or other allowance or loss has been extended or is available to the Corporation under the Income-tax Act, 1961, such exemption, assessment or benefit shall continue to have effect in relation to the Company.

Tax exemption or benefit to continue to have effect.

43 of
1961

(2) Where any payment made by the Corporation is exempt from deduction of tax at source under any provision of the Income-tax Act, 1961, such exemption will continue to be available as if the provisions of the said Act made applicable to the Corporation were operative in relation to the Company.

43 of
1961

(3) The transfer and vesting of the undertaking or any part thereof in terms of section 3 shall not be construed as a transfer within the meaning of the Income-tax Act, 1961 for the purposes of capital gains.

43 of
1961

7. Any guarantee given for or in favour of the Corporation with respect to any loan, lease finance or other assistance shall continue to be operative in relation to the Company.

Guarantee to be operative.

8 (1) Every officer or other employee of the Corporation (except Director of the Board, Chairman or Managing Director) serving in the employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in the Company by virtue of this Ordinance, become, as from the appointed day, an officer or, as the case may be, other employee of the Company and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, leave fare concession, welfare scheme, medical

Provisions in respect of Officers and other employees of Corporation.

benefit scheme, insurance, provident fund, other funds, retirement, voluntary retirement, gratuity and other benefits as he would have held under the Corporation if its undertaking had not vested in the Company and shall continue to do so as an officer or, as the case may be other employee of the Company or until the expiry of a period of six months from the appointed day if such officer or other employee opts not to continue to be the officer or other employee of the Company within such period.

(2) Where an officer or other employee of the Corporation opts under sub-section (1) not to be in employment or service of the Company such officer or other employee shall be deemed to have resigned.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of the Corporation to the Company shall not entitle such officer or other employee to any compensation under this Ordinance or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

14 of 1947.

(4) The officers and other employees who have retired before the appointed day from the service of the Corporation and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the Company.

(5) The trust of the provident fund or the gratuity fund of the Corporation and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the Company as was being done hitherto in the Corporation and any tax exemption granted to the provident fund or the gratuity fund would continue to be applied to the Company.

(6) Notwithstanding anything contained in this Ordinance or in the Companies Act, 1956 or in any other law for the time being in force or in the regulations of the Corporation, no Director of the Board, Chairman, Managing Director or any other person entitled to manage the whole or substantial part of the business and affairs of the Corporation shall be entitled to any compensation against the Corporation or the Company for the loss of office or for the premature termination of any contract of management entered into by him with the Corporation.

1 of 1956.

Act 18 of 1891 to apply to the books of the Company.

9. The Company shall be deemed to be a bank for the purposes of the Bankers' Books Evidence Act, 1891.

Shares, bonds and debentures to be deemed to be approved securities.

10., Notwithstanding anything contained in any other law for the time being in force, the shares, bonds and debentures of the Company shall be deemed to be approved securities for the purposes of the Indian Trusts Act, 1882, the Insurance Act, 1938 and the Banking Regulation Act, 1949.

2 of 1882.
4 of 1938.
10 of 1949.

Repeal and saving of Act 15 of 1948.

11. (1) On the appointed day, the Industrial Finance Corporation Act, 1948 shall stand repealed.

15 of 1948

(2) Notwithstanding the repeal of the Industrial Finance Corporation Act, 1948, the Company shall, so far as may be, comply with the provisions of sections 33, 34, 34A, 35 and 43 of the Act so repealed for any of the purposes related to the annual accounts of the Corporation.

12. (1) The Industrial Finance Corporation (Transfer of Undertaking and Repeal) Ordinance, 1992 is hereby repealed.

Repeal and saving of Ord. 17 of 1992.

17 of 1992

(2) Notwithstanding the repeal of the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Ordinance, 1992, 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 Ordinance.

SHANKER DAYAL SHARMA,
President.

K.L. MOHANPURIA,
Secy. to the Govt. of India.

THE MULTIMODAL TRANSPORTATION OF GOODS
ORDINANCE, 1993
No. 6 of 1993

Promulgated by the President in the Forty third Year
of the Republic of India.

An Ordinance to provide for the regulation of the multimodal transportation of goods, from any place in India, on the basis of a multimodal transport contract and for matters connected therewith or incidental thereto.

WHEREAS the Multimodal Transportation of Goods Ordinance, 1992 to provide for the aforesaid matters was promulgated by the President on the 16th day of October, 1992 ;

AND WHEREAS the Multimodal Transportation of Goods Bill, 1992 was introduced in the Council of States to replace the said Ordinance, and the said Bill has been passed by the Council of States and is pending in the House of the People;

AND 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 :—

CHAPTER-I

PRELIMINARY

Short title,
extent and
Commence-
ment.

1. (1) This Ordinance may be called the Multimodal Transportation of Goods Ordinance, 1993.

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

(3) It shall be deemed to have come into force on the 16th day of October, 1992.

Definitions.

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

(a) “carrier” means a person who is engaged in the business of transporting for hire goods, by road, rail, inland waterways or sea ;

(b) “competent authority” means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Ordinance ;

(c) “consignee” means the person named as consignee in the multimodal transport contract ;

(d) “consignment” means the goods entrusted to a multimodal transport operator for multimodal transportation ;

(e) “consignor” means the person, named in the multimodal transport contract as consignor, by whom or on whose behalf the goods covered by such contract are entrusted to a multimodal transport operator for multimodal transportation ;

(f) “delivery” means;—

(i) in the case of a negotiable multimodal transport document, delivering of the consignment to, or placing the consignment at the disposal of, the consignee or any other person entitled to receive it;

(ii) in the case of a non-negotiable multimodal transport document, delivering of the consignment to, or placing the consignment at the disposal of, the consignee or any person authorised by the consignee to accept delivery of the consignment on his behalf ;

(g) “endorsee” means the person in whose favour an endorsement is made, and in the case of successive endorsements, the person in whose favour the last endorsement is made;

(h) “endorsement” means the signing by the consignee or the endorsee after adding a direction on a negotiable multimodal transport document to a specified person;

(i) “goods” includes —

(l) containers, pallets or similar articles of transport used to consolidate goods, and

(II) animals :

(j) "mode of transport" means carriage of goods by road, rail, inland waterways or sea ;

(k) "multimodal transportation" means carriage of goods by two or more modes of transport from the place of acceptance of the goods in India to a place of delivery of the goods outside India ;

(l) "multimodal transport contract" means a contract entered into by the consignor and the multimodal transport operator for multimodal transportation :

(m) "multimodal transport operator" means any person who—

(i) concludes a multimodal transport contract on his own behalf or through another person acting on his behalf ;

(ii) acts as principal, and not as an agent either of the consignor or of the carrier participating in the multimodal transportation, and who assumes responsibility for the performance of the said contract ; and

(iii) is registered under sub-section (3) of section 4 :

(n) "negotiable multimodal transport document" means a multimodal transport document which is—

(i) made out to order or to bearer ; or

(ii) made out to order and is transferable by endorsement ; or

(iii) made out to bearer and is transferable without endorsement ;

(o) "non negotiable multimodal transport document" means a multimodal transport document which indicates only one named consignee ;

(p) "prescribed" means prescribed by rule made under this Ordinance ;

(q) " registration" means registration of multimodal transport operator under sub-section (3) of section 4.

CHAPTER II

REGULATION OF MULTIMODAL TRANSPORTATION

3. No person shall carry on or commence the business of multimodal transportation unless he is registered under this Ordinance :

No person to carry on business without registration.

Provided that a person carrying on the business of multimodal transportation immediately before the commencement of this Ordinance, may continue to do so for a period of three months from such commencement ; and if he has made an application for registration within the said period, till the disposal of such application.

4. (1) Any person may apply for registration to the competent authority to carry or commence the business of multimodal transportation.

Registration for multimodal transportation.

(2) An application under sub-section (1) shall be made in such form as may be prescribed and shall be accompanied by a fee of ten thousand rupees.

(3) On receipt of the application, the competent authority shall satisfy that the applicant fulfils the following conditions, namely :—

(a) (i) that the applicant is a shipping company or a company engaged in the business of freight forwarding in India or abroad with a minimum annual turnover of fifty lakh rupees during the immediate preceding financial year or an average annual turnover of fifty lakh rupees during the preceding three financial years as certified by a chartered accountant within the meaning of the Chartered Accountants Act, 1949 :

38 of 1949.

(ii) that if the applicant is a company other than a company specified in sub-clause (i), the subscribed share capital of such company is not less than fifty lakh rupees;

(b) that the applicant has offices or agents or representatives in not less than two other countries, -

and on being so satisfied, register the applicant as a multimodal transport operator and grant a certificate to it to carry on or commence the business of multimodal transportation :

Provided that the competent authority may, for reasons to be recorded in writing, refuse to grant registration if it is satisfied that the applicant does not fulfil the said conditions.

(4) A certificate granted under sub-section (3) shall be valid for a period of one year and may be renewed from time to time for a further period of one year at a time.

(5) An application for renewal shall be made in such form as may be prescribed and shall be accompanied by a fee of two thousand rupees.

Cancellation of registration.

5. The competent authority may, if it is satisfied at any time after registration that—

(a) any statement in, or in relation to, any application under sub-section (2) of section 4 or its renewal under sub-section (5) of that section, is incorrect or false in any material particular ; or

(b) any of the provisions of this Ordinance or the rules made there under has been contravened by the multimodal transport operator ; or

(c) the multimodal transport operator has not entered into any multimodal transport contract during the preceding two years after his registration,

cancel by order the certificate of registration :

Provided that no such registration shall be cancelled unless the multimodal transport operator has been given a reasonable opportunity of showing cause against the proposed action.

Appeal.

6. (1) Any person aggrieved by an order made by the competent authority under section 5 may prefer an appeal to the Central Government within such period as may be prescribed.

(2) No appeal shall be admitted if this preferred after the expiry of the prescribed period :

Provided that an appeal may be admitted after the expiry of the prescribed period if the appellant satisfies the Central Government that he 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 on payment of such fees as may be prescribed and shall be accompanied by a copy of the order appealed against.

(4) On receipt of any such appeal, the Central Government shall, after giving the parties a reasonable opportunity of being heard and after making such inquiry as it deems proper, make such order as it thinks fit.

CHAPTER III

MULTIMODAL TRANSPORT DOCUMENT

7. (1) Where the consignor and the multimodal transport operator have entered into a contract for the multimodal transportation and the multimodal transport operator has taken charge of the goods, he shall, at the option of the consignor, issue a negotiable or non-negotiable multimodal transport document.

Issue of multimodal transport document.

(2) The multimodal transport document shall be signed by the multimodal transport operator or by a person duly authorised by him.

8. (1) Every consignee named in the negotiable or non-negotiable multimodal transport document and every endorsee of such document, as the case may be, to whom the property in the goods mentioned therein shall pass, upon or by reason of such consignment or endorsement, shall have all the rights and liabilities of the consignor.

Multimodal transport document to be regarded as document of title.

(2) Nothing contained in sub-section (1) shall prejudice or affect the right of the multimodal transport operator to claim freight from the consignor or enforce any liability of the consignee or endorsee by reason of his being such consignee or endorsee.

9. The multimodal transport document shall contain the following particulars, namely :—

Contents of multimodal transport document.

(a) the general nature of the goods, the leading marks necessary for identification of the goods, the character of the goods (including dangerous goods), number of packages or units and the gross weight and quantity of the goods ;

(b) apparent condition of the goods ;

(c) the name and principal place of business of the multimodal transport operator ;

(d) the name of the consignor ;

(e) the name of the consignee, if specified by the consignor ;

(f) the place and date of taking charge of the goods by the multimodal transport operator ;

(g) the place of delivery of the goods ;

(h) the date or the period of delivery of the goods at the place of delivery ;

(i) whether it is negotiable or non-negotiable ;

(j) the place and date of its issue ;

(k) freight payable by the consignor or the consignee, as the case may be ;

(l) the signature of the multimodal transport operator of a person duly authorised by him ;

(m) the intended journey route, modes of transport and places of transshipment, if known at the time of its issue ;

(n) terms of shipment and a statement that the document has been issued subject to and in accordance with this Ordinance ; and

(o) any other particular which the parties may agree to insert in the document, if any such particular is not inconsistent with any law for the time being in force.

Reservation
in the multi-
modal
transport
document.

10. (1) Where the multimodal transport operator or a person acting on his behalf knows, or has reasonable grounds to suspect, that the particulars furnished by the consignor in the multimodal transport document do not accurately represent the goods actually taken in charge, or if he has no reasonable means of checking such particulars, the multimodal transport operator or a person acting on his behalf shall insert in the multimodal transport document a reservation specifying the inaccuracies, if any, the grounds of suspicion or the absence of reasonable means of checking the particulars.

(2) Where the multimodal transport operator or a person acting on his behalf fails to insert the reservation in the multimodal transport document relating to the apparent condition of the goods, he shall be deemed to have accepted the goods in apparent good condition.

Evidentiary
effect of
the multi-
modal
transport
document.

11. Save as provided in section 10,—

(a) the multimodal transport document shall be prima facie evidence of the fact the multimodal transport operator has taken charge of the goods as described in the document ; and

(b) no proof to the contrary by the multimodal transport operator shall be admissible if the multimodal transport document is issued in negotiable form and has been transmitted to the consignee or transferred by the consignee to a third party, if the consignee or the third party has acted in good faith relying on the description of the goods in the document.

Responsi-
bility of
the
consignor.

12. (1) The consignor shall be deemed to have guaranteed to the multimodal transport operator the adequacy and accuracy, at the time the multimodal transport operator takes charge of the goods, of the particulars referred to in clauses (a) and (b) of section 9 as furnished by the consignor for insertion in the multimodal transport document.

(2) The consignor shall indemnify the multimodal transport operator against loss resulting from inadequacy or inaccuracy of the particulars referred to in sub-section (1).

(3) The right of the multimodal transport operator under sub-section (2) shall in no way limit his liability under the multimodal transport contract to any person other than the consignor.

CHAPTER IV

RESPONSIBILITIES AND LIABILITIES OF THE MULTIMODAL TRANSPORT OPERATOR

Basis of
liability of
multi-
modal
transport
operator.

13. (1) The multimodal transport operator shall be liable for loss resulting from—

(a) any loss of, or damage to, the consignment ;

(b) delay in delivery of the consignment and any consequential loss or damage arising from such delay,

Where such loss, damage or delay in delivery took place while the consignment was in his charge:

Provided that the multimodal transport operator shall not be liable if he proves that no fault or neglect on his part or that of his servants or agents had caused or contributed to such loss, damage or delay in delivery:

Provided further that the multimodal transport operator shall not be liable for loss or damage arising

out of delay in delivery unless the consignor had made a declaration of interest in timely delivery which has been accepted by the multimodal transport operator.

Explanation:—For the purposes of this sub-section, “delay in delivery” shall be deemed to occur when the consignment has not been delivered within the time expressly agreed upon or, in the absence of such agreement, within a reasonable time required by a diligent multimodal transport operator, having regard to the circumstances of the case, to effect the delivery of the consignment.

(2) If the consignment has not been delivered within ninety consecutive days following the date of delivery expressly agreed upon or the reasonable time referred to in the Explanation to sub-section (1), the claimant may treat the consignment as lost.

14. (1) Where a multimodal transport operator becomes liable for any loss of, or damage to, any consignment, the nature and value where-of have not been declared by the consignor before such consignment has been taken in charge by the multimodal transport operator and the stage of transport at which such loss or damage occurred is not known, then the liability of the multimodal transport operator to pay compensation shall not exceed two Special Drawing Rights per kilogram of the gross weight of the consignment lost or damaged or 666.67 Special Drawing Rights per package or unit lost or damaged, whichever is higher.

Limits of liability when the nature and value of the consignment have not been declared and stage of transport where loss or damage occurred is not known.

Explanation.—For the purposes of this sub section, where a container, pallet or similar article of transport is loaded with more than one package or unit, the packages or units enumerated in the multimodal transport document, as packed in such container, pallet or similar article of transport shall be deemed as packages or units.

(2) Notwithstanding anything contained in sub-section (1), if the multimodal transportation does not, according to the multimodal transport contract, include carriage of goods by sea or by inland waterways, the liability of the multimodal transport operator shall be limited to an amount not exceeding 8.33 Special Drawing Rights per kilogram of the gross weight of the goods lost or damaged.

Limits of liability

15. Where a multimodal transport operator becomes liable for any loss of, or damage to, any consignment,

when the nature and value of the consignment have not been declared and stage of transport where loss or damage occurred is known.

the nature and value whereof have not been declared by the consignor before such consignment has been taken in charge by the multimodal transport operator and the stage of transport at which such loss or damage occurred is known, then the limit of the liability of the multimodal transport operator for such loss or damage shall be determined in accordance with the provisions of the relevant law applicable in relation to the mode of transport during the course of which the loss or damage occurred and any stipulation in the multimodal transport contract to the contrary shall be void and unenforceable.

Liability of the multimodal transport operator in case of delay in delivery of goods under certain circumstances.

16. Where delay in delivery of the consignment occurs under any of the circumstances mentioned in the Explanation to sub-section (1) of section 13, or any consequential loss or damage arises from such delay, then, the liability of the multimodal transport operator shall be limited to the freight payable for the consignment so delayed.

Assessment of compensation.

17. (1) Assessment of compensation for loss of, or damage to, the consignment shall be made with reference to the value of such consignment at the place where, and the time at which, such consignment is delivered to the consignee or at the place and time when, in accordance with the multimodal transport contract, it should have been delivered.

(2) The value of the consignment shall be determined according to the current commodity exchange price, or, if there is no such price, according to the current market price, or, if the current market price is not ascertainable, with reference to the normal value of a consignment of the same kind and quantity.

Loss of right of multimodal transport operator to limit liability.

18. The multimodal transport operator shall not be entitled to the benefit of limitation of liability under any of the provisions of this Chapter if it is proved that the loss, damage or delay in delivery of consignment resulted from an act or omission of the multimodal transport operator with intent to cause such loss, damage or delay or recklessly and with knowledge that such loss, damage or delay would probably result.

Limit of liability of

19. The multimodal transport operator shall not, in any case, be liable for an amount greater than the

multimodal liability for total loss of goods for which a person will transport be entitled to make a claim against him under the provisions of this Ordinance.
total loss
of goods.

20. (1) The delivery of the consignment to the consignee by the multimodal transport operator shall be treated as prima facie evidence of delivery of the goods as described in the multimodal transport document unless notice of the general nature of loss of, or damage to, the goods is given, in writing, by the consignee to the multimodal transport operator at the time of handing over of the goods to the consignee.

Notice of
loss of or
damage to
goods.

(2) Where the loss or damage is not apparent, the provisions of sub-section (1) shall apply unless notice in writing is given by the consignee of the loss of, or damage to, the goods within six consecutive days after the day when the goods were handed over to the consignee.

CHAPTER V

MISCELLANEOUS

21. (1) Where the consignor hands over the prescribed dangerous goods to a multimodal transport operator or any person acting on behalf of such operator the consignor shall inform him of the nature of the dangerous goods and, if necessary, the precautions to be taken while transporting such goods.

Special
provision
for dangerous goods.

(2) Where the consignor fails to inform the multimodal transport operator or the other person acting on behalf of such operator of the nature of the dangerous goods and such operator or person does not otherwise have knowledge of the dangerous goods—

(a) the consignor shall be liable to the multimodal transport operator or the other person acting on behalf of such operator for all loss resulting from the multimodal transportation of such goods; and

(b) the goods may at any time be unloaded, destroyed or rendered innocuous, as the circumstances may require, without payment of compensation.

22. (1) The multimodal transport operator who has not been paid the amount of consideration stipula-

Right of
multimodal

ted in the multimodal transport contract shall have a lien on the consignment and on the documents in his possession.

transport operator to have lien on goods and documents.

(2) Notwithstanding anything contained in sections 13, 16 and 18, the period during which the goods are in possession of the multimodal transport operator in exercise of his right of lien referred to in sub-section (1) shall not be included for the purposes of calculating the time of delay under any of those sections.

23. Notwithstanding anything contained in any other provision of this Ordinance, it shall be lawful for the parties to the multimodal transport contract to include in the multimodal transport document any provision relating to general average.

Explanation.—For the purposes of this section, “general average” means loss, damage or expense reasonably incurred in order to avert danger to property in common peril and in the common interest involved in the multimodal transportation.

Limitation
on action.

24. The multimodal transport operator shall not be liable under any of the provisions of this Ordinance unless action against him is brought within nine months of—

- (a) the date of delivery of the goods, or
- (b) the date when the goods should have been delivered, or
- (c) the date on and from which the party entitled to receive delivery of the goods has the right to treat the goods as lost under sub-section (2) of section 13.

Jurisdiction
for instituting
action.

25. Any party to the multimodal transport contract may institute an action in a court which is competent and within the jurisdiction of which is situated one of the following places, namely:—

- (a) the principal place of business, or, in the absence thereof, the habitual residence, of the defendant; or
- (b) the place where the multimodal transport contract was made, provided that the defendant has a place of business, branch or agency at such place; or
- (c) the place of taking charge of the goods for multimodal transportation or the place of delivery thereof; or

(d) any other place specified in the multimodal transport contract and evidenced in the multimodal transport document.

Arbitration.

26 (1) The parties to a multimodal transport contract may provide therein that any dispute which may arise in relation to multimodal transportation under the provisions of this Ordinance shall be referred to arbitration.

(2) The arbitration proceeding may be instituted at such place or in accordance with such procedure as may be specified in the multimodal transport document.

Delegation of power.

27. The Central Government may, by notification in the Official Gazette direct that any power exercisable by it under this Ordinance, except the power under section 30, shall, in such circumstances and subject to such conditions, if any, as may be specified therein, be exercisable also by such officer or authority as may be specified in the notification.

Multimodal transport contract to be made in accordance with this Ordinance.

28. No person registered as a multimodal transport operator shall enter into any contract for multimodal transportation except in accordance with the provisions of this Ordinance and any contract, to the extent it is inconsistent with the said provisions, shall be void and un-enforceable.

Ordinance to override other enactments.

29. The provisions of this Ordinance 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 Ordinance.

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

Power to make rules.

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

(a) the forms in which applications shall be made under section 4.

(b) the period within which appeal shall be preferred under sub-section (1) of section 6.

(c) the form in which an appeal shall be preferred under section 6 and the amount of fee payable in respect of such appeal ;

(d) dangerous goods for the purpose of 21; section

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

(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.

31. On and from the date of the commencement of this Ordinance, the enactments specified in Parts I, II and III of the Schedule shall be amended in the manner specified therein. Amendment of certain enactments.

Ord. 18 of 1992.

32. (1) The Multimodal Transportation of Goods Ordinance, 1992 is hereby repealed. Repeal and savings.

(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 the Ordinance.

THE SCHEDULE

(See section 31)

AMENDMENT OF CERTAIN ENACTMENTS

PART — I

Amendments of the Carriers Act, 1865

(3 of 1865)

In the Carriers Act, 1865,—

(a) in section 2, in the definition relating to “common carrier” after the words “engaged in the business of” the words “transporting property under multimodal transport document or of” shall be inserted;

(b) in section 6, 7 and 8, for the words "property delivered", the words and brackets "property (including container, pallet or similar article of transport used to consolidate goods) delivered" shall, respectively, be substituted;

(c) in sections 9 and 10, for the words "goods entrusted", the words and brackets "goods (including containers, pallets or similar article of transport used to consolidate goods) entrusted" shall, respectively, be substituted.

PART II

Amendment to the Indian Carriage of Goods by Sea Act, 1925

(26 of 1925)

In the Indian Carriage of Goods by Sea Act, 1925,—

(a) in the Preamble, after the second paragraph, the following paragraph shall be inserted, namely:—

"AND WHEREAS the said rules were amended by the Protocol signed at Brussels on 23rd February, 1968 and by the Protocol signed at Brussels on 21st December, 1979",

(b) in section 7, in sub-section (1), for the words and figures "sections 331 and 352", the words, figures and letters "section 331 and Part XA" shall be substituted;

(c) in the Schedule,—

(i) in Article I, in clause (c), after the word "merchandises," the words "containers, pallets or similar article of transport used to consolidate goods if supplied by the shipper," shall be inserted;

(ii) in Article III,—

(1) in paragraph 4, the following shall be added at the end, namely:—

"However, proof to the contrary shall not be admissible when the bill of lading has been transferred to a third party acting in good faith",

(2) in paragraph 6, in the third sub-paragraph, the following shall be added at the end, namely:—

"This period may, however, be extended if the parties so agree after the cause of action has arisen.

Provided that a suit may be brought after the expiry of the period of one year referred to in this sub-paragraph within a further period of not more than three months as allowed by the court".

(iii) in Article IV in paragraph 5.—

(1) for the words and figures "amount exceeding 100 per package or unit", the words and figures "amount exceeding 666.67 Special Drawing Rights per package or unit or two Special Drawing Rights per kilogram of gross weight of the goods lost or damaged, whichever is higher" shall be substituted;

(2) after the first sub-paragraph, the following sub-paragraphs shall be inserted namely:—

"Where a container, pallet or similar article of transport is used to consolidate goods, the number of packages or units enumerated in the bill of lading and as packed in such article of transport shall be deemed to be the number of the packages or units for the purposes of this paragraph as far as these packages or units are concerned.

Neither the carrier nor the ship shall be entitled to the benefit of limitation of liability provided for in this paragraph if it is proved that the damage resulted from an act or omission of the carrier done with intent to cause damage, or recklessly and with knowledge that damage would probably result.

Where the nature or value of the goods has been knowingly mis-stated by the shipper in the bill of lading, the liability of the carrier or ship shall not exceed the value so stated".

PART-III

AMENDMENT TO THE SALE OF GOODS ACT 1930

(3 OF 1930)

In the Sale of Goods Act 1930 in section 2 in clause (4) after the words "railway receipt" the words "multimodal transport document" shall be inserted.

SHANKER DAYAL SHARMA,
President.

K.L. MOHANPURIA,
Secy to the Govt. of India.

THE NATIONAL THERMAL POWER CORPORATION LIMITED, THE NATIONAL HYDROELECTRIC POWER CORPORATION LIMITED AND THE NORTH-EASTERN ELECTRIC POWER CORPORATION LIMITED (ACQUISITION AND TRANSFER OF POWER TRANSMISSION SYSTEMS)
ORDINANCE, 1993.

No. 10 OF 1993

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

An Ordinance to provide in the public interest for the acquisition and transfer of the power transmission systems of the three companies and the right, title and interest of those companies in the power transmission system situated in different parts of India, with a view to developing the National Power Grid to ensure transmission of power, within and across the different regions of India, on a more scientific, efficient and economic basis and for matters connected therewith or incidental thereto.

WHEREAS a Bill to provide in the public interest for the acquisition and transfer of the power transmission systems of the three companies and the right, title and interest of those companies in the power transmission system situated in different parts of India, with a view to developing the National Power Grid to ensure transmission of power, within and across the different regions of India, on a more scientific, efficient and economic basis and for matters connected therewith or incidental thereto, was introduced in the House of the People, but has not been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the said Bill;

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 :—

CHAPTER-I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Ordinance may be called the National Thermal Power Corporation Limited, the National Hydroelectric Power Corporation Limited and the North-Eastern Electric Power Corporation Limited (Acquisition and Transfer of Power Transmission Systems) Ordinance, 1993.

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

(3) The provisions of sections 8 to 11 and sections 13 to 16 shall come into force at once and the other provisions of this Ordinance shall be deemed to have come into force on the 1st day of April, 1992.

Definitions.

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

(a) "appointed day" means the 1st day of April, 1992;

(b) "associated personnel" means the employees of each of the three companies associated with its power transmission system;

(c) "Corporation" means the Power Grid Corporation of India Limited, being a company within the meaning of the Companies Act, 1956 and having its registered office at Hemkunt Chambers, 89, Nehru Place, New Delhi-110019;

1 of 1956

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

(e) "power transmission system", in relation to each company specified in the First Schedule, means the main transmission lines [including extra high voltage alternative current (EHVAC) lines and high voltage direct current (HVDC) lines] and sub-stations owned by each such company;

(f) "prescribed" means prescribed by rules made under this Ordinance;

(g) "three companies" means the companies specified in the First Schedule;

(h) words and expressions used herein and not defined but defined in the Electricity (Supply) Act, 1948 or as the case may be, the Companies Act, 1956 shall have the meanings respectively, assigned to them in those Acts.

54 of 1948
1 of 1956.

CHAPTER II

ACQUISITION AND TRANSFER OF POWER TRANSMISSION SYSTEMS

3. (1) On the appointed day, the power transmission system and the right, title and interest of each of the three companies in relation to its power transmission system shall, by virtue of this Ordinance, be deemed to have been transferred to, and vested in, the Central Government.

Acquisition
of rights of
three
companies
in relation
to the
power
transmis-
sion systems.

(2) The power transmission systems vested in the Central Government by virtue of sub-section (1) shall, immediately after they had so vested, be deemed to have been transferred to, and vested in, the Corporation.

4. (1) The power transmission system shall be deemed to include all assets, rights, leaseholds, powers, authorities and privileges and all property, movable and immovable, relating to such system including lands, buildings, workshops, projects (whether complete or at any stage of completion or planning), stores, spares, instruments, machinery and equipment, construction equipment, unutilised long-term and short-term loans and all other rights and interests in, or arising out of, such property as were, immediately before the appointed day, in the ownership, possession, power or control of the three companies and all books of account, registers and all other documents of whatever nature relating thereto but shall be deemed not to include—

General
effect of
vesting.

(a) book debts due to the three companies, immediately before the appointed day ;

(b) cash balances and bank balances as on the appointed day;

(c) income and expenditure on revenue account relating to any period before the appointed day.

Explanation.— For the removal of doubts, it is hereby declared that rights in relation to the power transmission system of each of the three companies which have been transferred to, and vested in, the Corporation under sub-section (2) of section 3 and this sub-section

shall include the right to collect transmission charges for transmission of power and any monies collected on or after the appointed day by any of the three companies as transmission charges (whether shown separately or not) shall be payable by such company to the Corporation.

(2) Unless otherwise expressly provided by this Ordinance, all deeds, bonds, guarantees (other than guarantees given by the Government of India), agreements, powers of attorney, grants of legal representation and other instruments of whatever nature in relation to the power transmission system of each of the three companies, subsisting or having effect immediately before the appointed day, and to which each of the three companies is a party or which are in favour of any of the said companies shall be of as full force and effect against or in favour of the Corporation and may be enforced or acted upon, as fully and effectually as if in the place of the concerned company the Corporation had been a party thereto or as if they had been issued in favour of the Corporation.

(3) If, on the date of promulgation of this Ordinance, any suit, appeal or other proceeding of whatever nature in relation to any property or assets which have been transferred to, and vested in, the Corporation under sub-section (2) of section 3, instituted or preferred by or against any of the three companies is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the power transmission system of that company or of anything contained in this Ordinance, but the suit, appeal or other proceeding may be continued prosecuted or enforced, subject to the provisions of sub-section (1) of section 5, by or against the Corporation.

Corporation
to be
liable
for
certain
prior
liabilities.

5. (1) Subject to the provisions of sub-section (2), every liability of each of the three companies in relation to its power transmission system, in respect of any period prior to the appointed day, which has been transferred to, and vested in, the Corporation under sub-section (2) of section 3, shall be the liability of the Corporation and shall be enforceable against the Corporation and not against the company :

Provided that nothing contained in this sub-section shall apply to--

(a) the income and expenditure on revenue account relating to any period before the appointed day and received or, as the case may be, incurred by any of the three companies on or after the appointed day;

(b) arrears of depreciation, regarding contingent liabilities on capital account relating to any period before the appointed day, arising on account of the decision of any court, tribunal or other authority.

(2) Where any repayment of a loan or interest, or both, has been made, on or after the appointed day, by any of the three companies to any lending agency, such repayment shall be deemed to have been made by the Corporation and the amount of such repayment shall be reimbursed by the Corporation to the concerned company on adjustment of transmission charges or any other amount due to the Corporation from the concerned company.

Corporation to be lessee or tenant.

6. (1) Where any property is held by any of the three companies in relation to its power transmission system under any lease or right of tenancy, the Corporation shall, on and from the appointed day, be deemed to have become the lessee or tenant, as the case may be, in respect of such property as if the lease or tenancy in relation to such property had been granted to the Corporation and thereupon all the rights under such lease or tenancy shall be deemed to have been transferred to, and vested in, the Corporation.

(2) On the expiry of the term of any lease or tenancy referred to in sub-section (1), such lease or tenancy shall, if so desired by the Corporation, be renewed on the same terms and conditions on which the lease or tenancy was held by any of the three companies immediately before the appointed day.

Removal of doubts.

7. (1) For the removal of doubts, it is hereby declared that the provisions of sections 3, 4, 5 and 6 shall apply to the extent to which any property appertains to the business relating to the power transmission system carried on by the three companies and to the rights and powers acquired, and to debts, liabilities and obligations incurred, and to contracts, agreements and other instruments made by any of the three companies and to legal proceedings relating to those matters pending in any court, tribunal or other authority in India.

(2) If any question arises as to whether any property appertains, on the appointed day, to any business of any of the three companies in relation to its power transmission system, or whether any rights,

powers, debts, liabilities or obligations were acquired or incurred or any contract, agreement or other instrument was made by any of the three companies for the purposes of its said business, or whether any document relates to those purposes, the question shall be referred to the Central Government which shall, after giving a reasonable opportunity of being heard to the persons interested in the matter, decide it in such manner as it may think fit.

8. (1) For the transfer to, and vesting in the Central Government under sections 3 and 4, of the power transmission system and the right, title and interest of each of the three companies in relation to its power transmission system, there shall be paid, in the prescribed manner, by the Central Government to each of the three companies such amount as is equal to the book value of all the assets and properties after deduction of liabilities (other than contingent liabilities) given in the audited statement of accounts of each of the three companies as on the 31st day of March, 1992. Payment of amount.

(2) For the transfer to, and vesting in, the Corporation under sub-section (2) of section 3 of the power transmission system and the right, title and interest of each of the three companies in relation to its power transmission system, there shall be paid, in the prescribed manner by the Corporation to the Central Government, the amount which is paid by that Government to the three companies under sub-section (1).

(3) In case of any dispute relating to the nature of any asset, property or liability or the amount payable under sub-section (1), the dispute shall be referred by the Central Government to such authority as it may appoint and the decision of that authority in the matter shall be final.

CHAPTER III

DELIVERY OF ASSETS, ETC., TO THE CORPORATION

9. (1) Any person who has, on the date of commencement of this Ordinance, in his possession or under his control, any assets, books and any other documents relating to the power transmission system which has been transferred to, and vested in, the Corporation under sub-section (2) of section 3, shall be liable to account for the said assets, books and documents to the Corporation and shall deliver them up to the Corporation or to such person or persons as the Corporation may specify in this behalf. Duty of persons to account for assets, etc. in their possession.

(2) The Corporation may take or cause to be taken all necessary steps for securing possession of the power transmission system which has been transferred to, and vested in, the Corporation under this Ordinance.

(3) Each of the three companies shall, within such period as the Corporation may allow in this behalf, furnish to the Corporation a complete inventory of all its property and assets as on the appointed day pertained to its power transmission system which has been transferred to, and vested in, the Corporation under sub-section (2) of section 3.

CHAPTER IV

PROVISIONS RELATING TO ASSOCIATED PERSONNEL

Contin-
uance of
associated
personnel.

10. (1) On the vesting of the power transmission system of the three companies in the Corporation, the associated personnel who have been, immediately on or before the appointed day, employed in any of the three companies and have not already become employees of the Corporation shall become, on and from the date of commencement of this Ordinance, employees of the Corporation and shall hold office or service under the Corporation on the terms and conditions which are not in any way less favourable than those which would have been admissible to them if there had been no such vesting and shall continue to do so unless and until their employment under the Corporation is duly terminated or until their remuneration and other conditions of service are duly altered by the Corporation.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or any other law for the time being in force, the transfer of the services of the associated personnel to the Corporation shall not entitle such personnel to any compensation under this Ordinance or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

14 of 1947

Provident
fund and
other funds.

11. (1) Where any of the three companies has established a provident fund or any other fund for the benefit of the persons employed by it, the monies relatable to the associated personnel who have already become employees of the Corporation or whose services have become transferred under this Ordinance to the Corporation shall, out of the monies standing, on the date of

transfer of the associated personnel, to the credit of such provident fund or other fund stand transferred to, and vest in, the Corporation.

(2) The monies which stand transferred under subsection (1) to the Corporation shall be dealt with by the Corporation in such manner as may be prescribed.

CHAPTER V

MISCELLANEOUS

Ordinance
to have
overriding
effect.

12. The provisions of this Ordinance 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 Ordinance, or in any decree or order of any court, tribunal or other authority.

Penalties

13. Any person who, —

(a) having in his possession, custody or control any property forming part of the power transmission system of any of the three companies wrongfully withholds such property from the Corporation; or

(b) wrongfully obtains possession of, or retains any property forming part of the power transmission system of any of the three companies; or

(c) wilfully withholds or fails to the furnish to the Corporation or any person or body of persons specified by the Corporation, any document or inventory relating to the power transmission system of any of the three companies, which may be in his possession, custody or control; or

(d) fails to deliver to the Corporation or any person or body of persons specified by that Corporation, any assets, books of account, registers or other documents in his possession, custody or control relating to the power transmission system of any of the three companies

shall be punishable with imprisonment for a term which may extend to two years and also with fine which may extend to ten thousand rupees.

14.(1) Where an offence punishable under this Ordinance has been committed, by a company, every person

Offences
by com-

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 persons liable to any punishment 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 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 neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section :

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

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

15. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Corporation or any of the three companies or any officer of that Government, Corporation or company or any other person authorised by that Government, Corporation or company for anything which is in good faith done or intended to be done under this Ordinance.

Protection of action taken in good faith

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

Power to make rules

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

(a) the manner in which the amount is to be paid under sub-section (1) or sub-section (2) of section 8;

(b) the manner in which the monies in any provident fund or other fund, referred to in sub-section (2) of section 11, shall be dealt with:

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

- (3) Every rule made by the Central Government 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.

THE SCHEDULE

[See section 2 (e) and (g)]

NAMES OF COMPANIES

1. The National Thermal Power Corporation Limited, a company incorporated and registered under the Companies Act, 1956 having its registered office in Core No 7, SCOPE Complex, Lodhi Road, New Delhi-110003
2. The National Hydroelectric Power Corporation Limited, a company incorporated and registered under the Companies Act, 1956 having its registered office at Hemkunt Tower, 98, Nehru Place, New Delhi-110019.
3. The North-Eastern Electric Power Corporation Limited, a company incorporated and registered under the Companies Act, 1956 having its registered office at Kharmalki Road, Shillong-793001.

SHANKER DAYAL SHARMA,
President.

A. C. C. UNNI,
Additional Secretary to the Govt of India.

THE FOREIGN EXCHANGE REGULATION
(AMENDMENT) ORDINANCE, 1993

No. 9 OF 1993

Promulgated by the President in the Forty-third Year
of the

Republic of India

An Ordinance further to amend the Foreign Exchange
Regulation

Act, 1973.

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 Foreign Exchange Regulation (Amendment) Ordinance, 1993.

Short title and commencement.

(2) It shall come into force at once.

46 of 1973.

2. In the Foreign Exchange Regulation Act, 1973 (hereinafter referred to as the principal Act), in the long title, the words "and bullion" shall be omitted.

Amendment of long title.

3. Sections 11 and 12 of the principal Act shall be omitted.

Omission of sections 11 and 12

4. In section 13 of the principal Act,—

Amendment of section 13.

(a) in sub-section (1), the words "any gold or silver or" shall be omitted ;

(b) in sub-section (2), the words "gold, jewellery or precious stones or" shall be omitted.

Omission of sections 15 and 17.

5. Sections 15 and 17 of the principal Act shall be omitted.

Amendment of section 18.

6. In section 18 of the principal Act, after sub-section (10), the following Explanation shall be inserted, namely :—

Explanation.— For the purposes of this section, “goods” includes gold, silver, jewellery and precious stones.”.

Insertion
of new sec-
tion 18A.

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

Payment
for lease,
hire or
other ar-
rangement.

“18A. (1) No person shall, except with the general or special permission of the Reserve Bank, take or send out by land, sea or air any goods from India to any place on lease or hire or under any arrangement other than sale or disposal in any other manner of such goods.

(2) The provisions of section 18 shall, so far as may be, apply to the taking or sending out of goods under sub-section (1).”.

Amend-
ment of
section 19.

8. In section 19 of the principal Act,—

(a) in sub-section (1), clause (c) shall be omitted ;
(b) in sub-section (4), clause (c) shall be omitted ;
(c) for sub-sections (5) and (6), the following sub-sections shall be substituted, namely :—

“(5) Notwithstanding anything contained in any other law, no transfer of any share, bond or debenture of a company registered in India made by a person resident outside India or by a national of a foreign State to another person resident in India shall be valid unless such transfer is confirmed by the Reserve Bank on an application made to it in this behalf by the transferor or the transferee,

(6) If the Reserve Bank is of opinion that it is necessary or expedient in the public interest so to do, it may, be general or special permission, exempt any transfer referred to in sub-section (5) or any class of such transfers from the operation of the provisions of that sub-section, subject to such conditions, if any, as may be specified in such permission”.

Omission
of sections
20 and 21.

9. Sections 20 and 21 of the principal Act shall be omitted.

Amend-
ment of
section 22.

10. In section 22 of the principal Act, the words “The Central Government may be notified in the Official Gazette, order that” shall be omitted.

Omission of section 23. 11. Section 23 of the principal Act shall be omitted.

Amendment of section 25. 12. In section 25 of the principal Act,—

(a) in sub-section (1), for the words “permission of the Reserve Bank”, the words “general or special permission of the Reserve Bank” shall be substituted ;

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

Substitution of new section for section 26. 13. For section 26 of the principal Act, the following section shall be substituted, namely :—

Certain provisions as to guarantee in respect of debt or other obligation. “26. Except with the general or special permission of the Central Government or the Reserve Bank, no person resident in India shall give a guarantee in respect of any debt or other obligation or liability—

(i) of a person resident in India, and due or owing to a person resident outside India, or

(ii) of a person resident outside India”.

14. Section 27 of the principal Act shall be omitted. omission of section 27

15. In section 28 of the principal Act,—

(a) for sub-sections (1) and (2), the following of section 28 sub-sections shall be substituted namely;—

1 of 1956. “(1) Without prejudice to the provisions of section 47 and notwithstanding anything contained in any other provision of this Act or the Companies Act, 1955, a person resident outside India (whether a citizen of India or not) or a person who is not a citizen of India but is resident in India, or a company (other than a banking company) which is not incorporated under any law in force in India or any branch of such company shall not, except with the general or special permission of the Reserve Bank, act, or except appointment, as agent in India of any person or company, in the trading or commercial transaction of such person or company.

(2) Where any such person or company (including its branch) as is referred to in sub-section (1) acts or accepts appointment as such agent without the per-

mission of the Reserve Bank such acting or appointment shall be void."

(b) in the Explanation, clause (d) shall be omitted.

16. In section 29 of the principal Act.—

Amendment of
section 29.

(a) in sub-section (I), the words "or in which the non-resident interest is more than forty per cent," shall be omitted:

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

"(IA) A company (other than a banking company) in which the non-resident interest is more than forty per cent, shall not, except with the general or special permission of the Reserve Bank carry on in India any activity relating to agriculture or plantation or acquire the whole or any part of any undertaking in India of any person or company carrying on any activity relating to agriculture or plantation or purchase the shares in such company."

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

'Explanation.—For the purposes of this section.—

(i) "company" has the same meaning as in clause (b) of of the Explanation to section 28.

(ii) "non-resident interest" means participation in the share capital by or entitlement to the distributable profits of any individual or company resident outside India, or any branch of such company whether resident outside India or not"

17. In section 30 of the principal Act, for sub-section (I); the following sub-section shall be substituted, namely:—

Amend-
ment of
section 30.

"(1) No national of a foreign State shall, without the previous permission of the Reserve Bank, practise any profession or carry on any occupation, trade or business in India in a case where such national desires to acquire any foreign exchange (such foreign exchange being intended for remittance outside India) out of any moneys received by him in India by reason of the prac-

tising of such profession or the carrying on of such occupation, trade or business, as the case may be."

18. In section 31 of the principal Act, in sub-section (i) the words "or in which the non-resident interest is more than forty per cent" shall be omitted. Amendment of section 31

Omission of section 32. 19. Section 32 of the principal Act shall be omitted

Amendment of sections 35, 37, 46 and 62. 20. In sections 35, 37, 46 and 62 of the principal Act, for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted. 5 of 1898.
2 of 1974

Amendment of section 41. 21. In section 41 of the principal Act,—

(a) for the words "one year", wherever they occur, the words "six months" shall be substituted ;

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

"Provided that the aforesaid period of six months may, for reasons to be recorded in writing be extended by the Director of Enforcement for a further period not exceeding six months."

Amendment of section 42. 22. In section 42 of the principal Act,—
(a) in sub-section (1), in clause (i), after the word and figures "section 18", the words, figures and letter "or section 18A" shall be inserted ;

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

"(4) Where any foreign currency, being the subject matter of any investigation or proceeding referred to in sub-section (1), is in the custody of an officer of Customs or of an officer of Enforcement or of a court, the Collector of Customs, the Director of Enforcement or, as the case may be, the court may, having regard to the security-risk involved in such custody, direct that the foreign currency be deposited in a bank in such manner as he or it may deem fit.

(5) Where any draft, cheque (including traveller's cheque) or other instrument is to be encashed under

sub-section (1) or any foreign currency is to be deposited in a bank under sub-section (4), the Collector of Customs, the Director of Enforcement or, as the case may be, the court, may prepare or cause to be prepared an inventory of such draft, cheque or other instrument or foreign currency containing such details relating to its description mark, numbers, country of origin and other particulars as may appear to be relevant to its identity in any proceeding under this Act and where the inventory is prepared or caused to be prepared by the Collector or the Director, the Collector or, as the case may be, the Director shall make an application to a Magistrate for the purpose of—

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

(b) taking, in the presence of the Magistrate photographs of such draft, cheque, other instrument or foreign currency, and certifying such photographs as true.

(6) Where an application is made under sub-section (5), the Magistrate shall, as soon as may be, allow the application."

Amend-
ment of
section 43.

23. In section 43 of the principal Act, in sub-section (5), the words and figures "and to a person to whom a licence has been granted or deemed to have been granted under section 32" shall be omitted.

Amend-
ment of
section 45.

24. In section 45 of the principal Act,—

(a) in sub-section (1), for the words and figures "Code of Criminal Procedure, 1898, any police officer not below the rank of a Sub-Inspector of Police", the words and figures "Code of Criminal Procedure, 1973, any police officer not below the rank of a Deputy Superintendent of Police" shall be substituted ;

5 of 1898.
2 of 1974.

5 of 1898
2 of 1974

(b) in sub-section (3), for the words and figures "Code of Criminal Procedure, 1898", the words and figures, "Code of Criminal Procedure, 1973", shall be substituted.

25. In section 50 of the principal Act, for the word and figures, "section 18", the words, figures and letter "section 18, section 18A" shall be substituted

Amendment
of section
50.

26. In section 52 of the principal Act.—

(a) in sub-section (2), after the words "Any person aggrieved by such order may", the words "on payment of such fee as may be prescribed and" shall be inserted;

Amendment
of section
52.

(b) in sub-section (6), in the second proviso, for the words "fifty thousand rupees", the words "two lakhs and fifty thousand rupees", shall be substituted.

5 of 1898
2 of 1974

27. In section 53 of the principal Act, in sub-section (2), for the words and figures "sections 480 and 482 of the Code of Criminal Procedure, 1898", the words and figures "sections 345 and 346 of the Code of Criminal Procedure, 1973" shall be substituted. **Amendment of section 53.**

28. In section 56 of the principal Act.—

(a) in sub-section (1), for the word and figures "section 18", the words, figures and letter "section 18, of section 56 section 18A", shall be substituted; **Amendment of section 56**

(b) in sub-sections (2) and (3), for the word and figures "section 18" wherever they occur, the words, figures and letter "section 18 or section 18A" shall be substituted;

5 of 1898
2 of 1974

(c) in sub-section (6), for the words and figures "the first proviso to section 188 of the Code of Criminal Procedure, 1898", the words and figures "the proviso to section 188 of the Code of Criminal Procedure, 1973" shall be substituted.

29. In section 58 of the principal Act.—

(a) in sub-section (1), for the words "be punishable with fine which may extend to two thousand rupees", the words "be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees or with both" shall be substituted; **Amendment of section 58**

(b) in sub-section (2), for the words "two thousand rupees," the words "ten thousand rupees" shall be substituted.

30. In section 61 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:— **Amendment of section 61**

2 of 1974.

"(1) Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for any metropolitan magistrate and for any magistrate of the first class to pass a sentence of imprisonment for a term exceeding three years or of fine exceeding five thousand rupees on any person convicted of an offence punishable under section 56".

31. In section 64 of the principal Act, in sub-sections (1) and (2), for the word and figures "section 18", the words, figures and letter "section 18, section 18A," shall be substituted. Amendment of section 64

5 of 1898.
2 of 1974. 32. In section 66 of the principal Act, in sub-section (1), for the words and figures "section 562 of the Code of Criminal Procedure, 1898", the words and figures "section 360 of the Code of Criminal Procedure, 1973" shall be substituted. Amendment of section 66

Amendment of section 67. 33. In section 67 of the principal Act, for the word and figures "section 18", the words, figures and letter "section 18, section 18A" shall be substituted.

Amendment of section 71. 34. In section 71 of the principal Act, in sub-section (3), for the words "two hundred and fifty rupees", the words "fifteen thousand rupees" shall be substituted.

Amendment of section 73. 35. In section 73 of the principal Act, in sub-section (3), the words and figures "persons referred to in sub-section (1) of section 32" shall be omitted.

Insertion of new section 73A. 36. After section 73 of the principal Act, the following section shall be inserted.

Penalty for contravention of direction of Reserve Bank or for failure to file returns. "73A. Where any authorised dealer contravenes any direction given by the Reserve Bank under this act or fails to file any return as directed by the Reserve Bank, the Reserve Bank may, after giving a reasonable opportunity of being heard impose on the authorised dealer a penalty which may extend to ten thousand rupees and in the case of continuing contravention with an additional penalty which, may extend to two thousand rupees for every day during which such contravention continues."

Amendment of section 74. 37. In section 74 of the principal Act, in clause (i), for the figures and word "9, 10 or 11", the figures and word "9 or 10" shall be substituted.

Amendment of section 79. 38. In section 79 of the principal Act, in sub-section (2) after clause (d) the following clause shall be inserted, namely :—

" (dd) prescribe the fee payable by a person preferring appeal to the Appellate Board under sub-section (2) of section 52 "

SHANKER DAYAL SHARMA,
President.

A.C.C. UNNI.
Additional Secretary to the Govt. of India.