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GOVERNMENT OF MIZORAM
PART V

Acts of Parliament and Ordinances promulgated by the President;
Bills introduced in the Parliament of India,
Bills published before introduction in the Parliament, and
Reports of selection Committees presented or to be presented in
[the Parliament.

THE FOOD CORPORATIONS (AMENDMENT)
ACT, 1972

AN
ACT

further to amend the Food Corporations Act, 1964

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

1. This Act may be called the Food Corporations (Amendment) Act, 1972.

Short
title.

2. In section 1 of the Food Corporations Act, 1964 (hereinafter referred to as the principal Act), in sub-section (2), the words "except the State of Jammu and Kashmir" shall be omitted.

Amend-
ment of
section 1.

3. In section 2 of the principal Act, after clause (b), the following clause shall be inserted, namely:—

Amend-
ment of
section 2.

'(bb) "foodstuffs" includes edible oilseeds and oils;'

4. In section 4 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amend-
ment of
section 4.

"(2) The Corporation may establish offices or agencies at other places in or outside India:

Provided that no such office or agency shall be established at any place outside India without the previous approval of the Central Government".

Amend-
ment of
section 27.

5. In section 27 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) A Food Corporation may, for the purpose of carrying out its functions under this Act, also borrow money from the Central Government, and that Government may, after due appropriation made by Parliament by law in this behalf, pay to the Food Corporation such sums of money by way of loan on such terms and conditions as that Government may determine.”

Amend-
ment of
section 34.

6. In section 34 of the principal Act, for sub-section (5), the following sub-sections shall be substituted, namely:—

“(5) The Comptroller and Auditor-General of India shall have power—

(a) to direct the manner in which the accounts of a Food Corporation shall be audited by the auditors appointed under sub-section (3) and to give such auditors instructions in regard to any matter relating to the performance of their functions as such;

(b) to conduct a supplementary or test audit of the accounts of a Food Corporation by such person or persons as he may authorise in this behalf; and for the purpose of such audit, to require information or additional information to be furnished to any person or persons so authorised, on such matters, by such person or persons, and in such form, as the Comptroller and Auditor-General may, by general or special order, direct.

(6) The auditors shall send a copy of their report together with an audited copy of the accounts—

(a) to the Food Corporation concerned;

(b) where the accounts relate to a State Food Corporation, also to the Food Corporation of India;

(c) to the Central Government; and

(d) to the Comptroller and Auditor-General of India who shall have the right to comment upon, or supplement the audit report in such manner as he may think fit.

(7) Any comments upon, or supplement to, the audit report, made by the Comptroller and Auditor-General of India under clause (d) of sub-section (6) shall be placed by the Food Corporation concerned before the Central Government, and where the accounts relate to a State Food Corporation, also before the Food Corporation of India".

7. In section 35 of the principal Act, in sub-section (2), after the Amendwords and figures "received under section 34", the words "together with ment of any comments thereon or supplement thereto by the Comptroller and Auditor-General of India" shall be inserted.

Amend-
ment of
section 35.

THE STATE FINANCIAL CORPORATIONS
(AMENDMENT) ACT, 1972

AN
ACT

*further to amend the State Financial Corporations
Act, 1951.*

Be it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:-

1. This Act may be called the State Financial Corporations (Amendment) Act, 1972.

Short title.

63 of 1951

2. In the State Financial Corporations Act, 1951 (hereinafter referred to as the principal Act), in section 2,-

Amendment of section 2

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

18 of 1964

“(aa) “Development Bank” means the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964;”

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

“(c) “industrial concern” means any concern engaged or to be engaged in—

- (i) the manufacture, preservation or processing of goods;
- (ii) mining;
- (iii) the hotel industry;
- (iv) the transport of passengers or goods by road or by water or by air;
- (v) the generation or distribution of electricity or any other form of power;
- (vi) the maintenance, repair, testing or servicing of machinery of any description or vehicles or vessels or motor boats or trailers or tractors;

(vii) assembling, repairing or packing any article with the aid of machinery or power;

(viii) the development of any contiguous area of land as an industrial estate;

(ix) fishing or providing shore facilities for fishing or maintenance thereof; or

(x) providing special or technical knowledge or other services for the promotion of industrial growth.

Explanation.—The expression “processing of goods” includes any art or process for producing, preparing or making an article by subjecting any material to a manual, mechanical, chemical, electrical or any other like operation;’;

Amendment of section 4

3 In section 4 of the principal Act, in sub-section (3),—

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

“(ba) the Development Bank,”;

(b) in clause (d), after the brackets and letter “(b)”, the brackets and letters, “(ba)” shall be inserted.

Insertion of new section 4A.

Special class of shares.

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

“4A. (1) From out of the unissued capital of the Financial Corporation, as on the commencement of the State Financial Corporations (Amendment) Act, 1972, such part as the State Government may, in consultation with the Reserve Bank, specify from time to time, shall be allocated for the issue of a special class of shares.

(2) The special class of shares so allocated under sub-section (1), shall be,—

(a) divided into such number of shares of the same face value as the State Government may, in consultation with the Reserve Bank, determine;

(b) subscribed by the State Government and the Reserve Bank and they may do so in such proportion as may be agreed upon by and between them and the Financial Corporation shall make allotment of such shares accordingly.

(3) The funds representing the capital subscribed as aforesaid shall be used only for such purposes, in such manner and for rendering assistance to such class or category of industrial concerns, as the Reserve Bank may, in consultation with and after obtaining the advice of the State Government, specify in this behalf from time to time and nothing contained in section 47 or section 48 shall apply thereto.

(4) The rate of dividend declared on the special class of shares in respect of any accounting year of a Financial Corporation shall not exceed the rate of dividend in respect of its other shares.

(5) Nothing contained in sub-sections (2) to (5) of section 4, section 5, and sub-section (1) of section 6, shall apply to the special class of shares."

5. In section 7 of the principal Act,—

(a) in sub-section (1), for the words "and with the approval of the Central Government", the words "based on the advice of the Reserve Bank", shall be substituted;

(b) in sub-section (2), in clause (b),—

(i) for the words "or against bonds and debentures issued by the Financial Corporation and guaranteed by the State

Amendment of section 7.

Government", the words "or subject to the previous approval of the State Government, against bonds and debentures issued by the Financial Corporation" shall be substituted;

(ii) after the words "date on which money is so borrowed", the words "and every such bond and debenture shall be guaranteed by the State Government" shall be inserted;

(iii) in the proviso, for the word "sixty", the word "ninety" shall be substituted;

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

"7A. The rights and interests of the Financial Corporation (including any other rights incidental thereto) in relation to any loan or advance granted or any amount recoverable by it, may be transferred by the Financial Corporation either in whole or in part, by the execution or issue of any instrument or by transfer of any instrument by endorsement or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred, and the Financial Corporation may, notwithstanding such transfer, act as the trustee for the transferee."

Insertion
of new
section.
7A.

Power to
transfer
rights.

7. In section 10 of the principal Act,—

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

"(c) one director nominated by the Development Bank;"

(b) in clause (f), after the words "in consultation with", the words "and after obtaining the advice of" shall be inserted.

Amend-
ment of
section 10.

Amend-
ment of
section 11.

8. In section 11 of the principal Act, in sub-section (3), for the words "for not more than two full consecutive terms", the words "so, however, that no person elected as director shall hold office for a continuous period exceeding eight years" shall be substituted.

Amend-
ment of
section 14.

9. In section 14 of the principal Act, in sub-section (1), for the words "The managing director or any other director may resign his office by giving notice thereof in writing to the State Government", the words, brackets, letters and figures "The managing director may, by giving notice in writing to the State Government, and any director elected under clause (d) or clause (e) of section 10 may, by giving notice in writing to the Chairman of the Board, resign his office" shall be substituted.

Amend-
ment of
section 17.

10. In section 17 of the principal Act, in sub-section (1),—

(i) to clause (a), the following proviso shall be added, namely:—

"Provided that the Board may, if in its opinion it is necessary in the the public interest so to do, permit the managing director to undertake, at the request of the Central Government or the State Government or the Reserve Bank, such part-time honorary work as is not likely to interfere with his duties as managing director.";

(ii) in clause (d), after the words "salary and allowances", wherever they occur, the words "and be subject to other terms and conditions of service" shall be inserted.

Amend-
ment of
section 18.

11. In section 18 of the principal Act, in sub-section (a), in clause (a),—

(i) for the words and figures "the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948", the words "the Development Bank" shall be substituted;

15 of 1948.

(ii) in the proviso, for the words "the Industrial Finance Corporation of India", the words "the Development Bank" shall be substituted.

Amend-
ment of
section 19.

12. In section 19 of the principal Act—

(a) in sub-section (3A), for the words and figures the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948", the words "the Development Bank" shall be substituted;

15 of 1948.

(b) in sub-section (4), for the words and figures "the Industrial Finance Corporation established under the Industrial Finance Corporation Act, 1948", the words "the Development Bank" shall be substituted.

15 of 1948.

Substitution
of new
section for
section 22.

Offices
and
agencies.

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

"22. The Financial Corporation shall establish its head office and other offices and agencies at such places as the State Government may, from time to time, specify and save as aforesaid, the Financial corporation may establish additional offices or agencies in such other places within the State as it may consider necessary."

14. To section 23 of the principal Act, the following proviso shall be added, namely:—

Amend-
ment of
section 23.

"Provided that the State Government may, in consultation with and after obtaining the advice of the Reserve Bank,

specify the class or categories of post in respect of which appointments may be made by the Board on such remuneration and other conditions of service as the Board may determine, and no regulation made under this Act shall apply to such post in respect of matters so determined by the Board.”.

15. In section 25 of the principal Act,—

Amend-
ment of
section 25.

(a) in sub-section (1),—

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

“(ca) transferring for consideration any instruments relating to loans and advances granted by it to industrial concerns;”;

(ii) in clause (d),—

(a) after the words “the State Government”, the words “or the Development Bank” shall be inserted;

(b) for the words “in the transaction of any business with an industrial concern in respect of loans or advances granted, or debentures subscribed, by any one of them”, the words “in respect of any matter connected with, or arising out of, the grant of loans or advances to and industrial concern, or subscription to debentures of an industrial concern” shall be substituted;

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

“(da) subscribing to the stocks, shares, bonds or debentures of an industrial concern from out of the funds representing the capital subscribed in accordance with the provision of section 4A;”;

(b) in sub-section (2), the words "or unless it is covered by a guarantee falling under any credit guarantee scheme framed by the Central Government or such other Government or financial institution as the Central Government may notify in this behalf" shall be inserted at the end;

(c) in sub-section (3), for the word, brackets and letter "and (c)", the brackets, letters, and word "(c) and (ca)" shall be substituted;

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

"(4) Nothing contained in this section shall entitle any Financial Corporation to hold shares in any company, whether as pledgee, mortgagee or absolute owner, of an amount exceeding thirty per cent of the subscribed share capital of that company or thirty per cent of its own paid-up share capital and free reserves, whichever is less.

(5) If, on the commencement of the State Financial Corporations (Amendment) Act, 1972, any Financial Corporation is holding shares in excess of the limits specified in sub-section (4), the Corporation shall report the matter forthwith to the Reserve Bank and shall, within such period as the Reserve Bank may allow, so reduce its share holdings as to conform to the provisions of that sub-section."

Amend-
ment of
section 26.

16. Section 26 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so re-numbered, -

(i) for the words, brackets and letters, "The Financial Corporation shall not enter into any arrangements under clauses

(a) and (g) of," the words, brackets and figures "On and from the commencement of the State Financial Corporations (Amendment) Act, 1972, the Financial Corporation shall not enter into any arrangements under clause (a), (ca) or (g) of" shall be substituted;

(ii) after the words "in respect of all such arrangements", the words "together with the amount of the face value of the shares and stocks of that concern whether subscribed or agreed to be subscribed and the outstanding liabilities on account of under-writing agreements and the differed payments guarantees" shall be inserted;

(iii) in clause (i), for the words "twenty lakhs of rupees in the case of a public limited company", the words "thirty lakhs of rupees in the case of a company" shall be substituted;

(iv) in clause (ii), for the words "ten lakhs", the words "fifteen lakhs" shall be substituted;

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

"(2) Nothing contained in sub-section (1) shall apply to any transaction entered into by a Financial Corporation with any industrial concern before the commencement of the State Financial Corporations (Amendment) Act, 1972, and in relation to every such transaction, section 26 of the principal Act shall continue to apply as if the said section had not been amended by the first-mentioned Act."

“(2) Where any arrangement entered into by the Financial Corporation with an industrial concern provides for the appointment by the Financial Corporation of one or more directors of such industrial concern, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the industrial concern, and any provision regarding share qualification, age limit, number of directorships, removal of office of directors and such like conditions contained in any such law or instrument aforesaid shall not apply to any director appointed by the Financial Corporation in pursuance of the arrangement as aforesaid.

(3) Any director appointed in pursuance of sub-section (2) shall—

(a) hold office during the pleasure of the Financial Corporation and may be removed or substituted by any person by order in writing by the Financial Corporation;

(b) not incur any obligation or liability by reason only of his being a director or for any thing done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(c) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.”.

18. Section 28 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

Amend-
ment of
section 28.

(a) in sub-section (1) as so re-numbered,—

(i) in clause (b), after the word “clauses”, the brackets and letters “(da)” shall be inserted;

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

“(d) grant any form of assistance to any industrial concern in respect of which the aggregate of the paid-up share capital and free reserves exceeds one crore of rupees.”;

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

“(2) The Financial Corporation shall not enter into any kind of business with any industrial concern, of which any of the directors of the Financial Corporation is a proprietor, partner, director, manager, agent, employee or guarantor, or in which one or more directors of the Financial Corporation together hold substantial interest:

Provided that this section shall not apply to any industrial concern if any director of the Financial Corporation—

(i) is nominated as a director of the Board of such concern by the Government or a Government company as defined in section 617 of the Companies Act, 1956, or by a Corporation established by or under any other law; or

(ii) is elected on the Board of such concern by virtue of shares held in the concern by Government or a Government company as defined in section 617 of the Companies Act, 1956, or by a

1 of 1956

Corporation established by or under any other law, by reason only of such nomination or election, as the case may be.

Explanation.—“Substantial interest” in relation to an industrial concern means the beneficial interest held by one or more of the directors of the Financial Corporation or by any relative (as defined in clause (41) of section 2 of the Companies Act, 1956) of such director whether singly or taken together, in the shares of the industrial concern, the aggregate amount paid-up on which either exceeds five lacks of rupees or five per cent. of the paid-up share capital of the industrial concern, whichever is less.

1 of 1956.

(3) The provisions of sub-section (2)—

(i) shall not apply to any transaction relating to the business entered into prior to the commencement of the State Financial Corporations (Amendment) Act, 1972, and all such business and any transaction in relation thereto may be implemented or continued as if that Act had not come into force;

(ii) shall apply only so long as the conditions precedent to such disability as set out in the sub-section continue.”.

Amend-
ment of
section 29

19. In section 29 of the principal Act,—

(a) In sub-section (1),—

(i) after the words “ of any loan or advance or any instalment thereof”, the words “or in meeting its obligations in relation to any guarantee given by the Corporation” shall be inserted;

(ii) for the words "right to take over the management of the industrial concern", the words "right to take over the management or possession or both of the industrial concern" shall be substituted;

(b) in sub-section (4),—

(i) for the words "Where the management of an industrial concern is taken over by the Financial Corporation or any property is transferred and realised by it", the words "Where any action has been taken against an industrial concern" shall be substituted;

(ii) for the words "as incidental to such management, or transfer and realisation", the words "as incidental thereto" shall be substituted;

(iii) after the words "which is received by it", the words "from such management, or transfer and realisation" shall be omitted;

(c) in sub-section (5), for the words "Where the Financial Corporation takes over the management of an industrial concern", the words "Where the Financial Corporation has taken any action against an industrial concern" shall be substituted.

20. In section 31 of the principal Act, in sub-section (1), after the words "any default in repayment of any loan or advance or any instalment thereof", the words "or in meeting its obligations in relation to any guarantee given by the Corporation" shall be inserted.

Amend-
ment of
section 31-

21. In section 32 of the principal Act—

(a) in sub-section (11), in clause (b), the words "or by any judge of the principal court of civil jurisdiction" shall be inserted at the end;

(b) after sub-section (11) as so amended, the following sub-section shall be inserted, namely:—

Amend-
ment of
section 32.

“(12) For the removal of doubts it is hereby declared that any court competent to grant an ad interim injunction under this section shall also have the power to appoint a Receiver and to exercise all the other powers incidental thereto.”.

22. In section 34 of the principal Act, in sub-section (2), after the words ‘brackets and figures “the State Bank of India (Subsidiary Banks) Act, 1959”, the words, figures and brackets “or in any of the banks specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970” shall be inserted.

Amend-
ment of
section 33.

38 of 195

5 of 1970.

23. In section 35 of the principal Act, sub-section (3) shall be omitted.

Amend-
ment of
section 35.

24. In section 35A of the principal Act,—

Amend-
ment of
section
35A

(a) for the words “the State Government and the Reserve Bank”, wherever they occur, the words “the State Government, the Reserve Bank and the Development Bank” shall be substituted;

(b) in the proviso to sub-section (1), for the word “ten” the word “twenty five” shall be substituted.

25. In section 37 of the principal Act, for sub-section (1) and the proviso thereto, the following sub-section shall be substituted, namely:—

Amend-
ment of
section 37.

“(1) The affairs of the Financial Corporation shall be audited by auditors duly qualified to act as auditors of companies under sub-section (1) of section 226 of the Companies Act, 1956, who shall be appointed by the State Government in consultation with the Comptroller and Auditor-

1 of 1956.

General of India and the Financial Corporation shall pay to the auditors so appointed such remuneration as the State Government may fix.”.

26. In section 39 of the principal Act, in sub-section (1), after the words “in consultation with”, the words, “and after obtaining the advice of,” shall be inserted.

Amendment of section 39

27. In section 46A of the principal Act,—

Amendment of section 46A

(a) in sub-section (1),—

(i) for the words “and any other State”, the words “and one or more other States not served in whole or in part by a Financial Corporation” shall be substituted;

(ii) for the words “should serve its needs”, the words “should serve the needs of those States or of any area therein” shall be substituted;

(iii) after the words “serve the needs of those States”, the words “or, as the case may be, of the area therein” shall be inserted;

(iv) the words “and any Financial Corporation or any State may enter into separate or successive agreements as aforesaid with one another or with other Financial Corporations of States and in relation to different areas of the states” shall be inserted at the end;

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

“(IA) Any agreement entered into under sub-section (1) may be modified or rescinded by mutual agreement between the parties thereto and every such mutual agreement shall also provide for the apportionment of assets and liabilities.”.

28. In section 48 of the principal Act, for sub-section (3), the following sub-section shall be, and shall be deemed always to have been, substituted, namely:—

Amend-
ment of
section 48.

“(3) All regulations made under this section shall be published in the Official Gazette and any such regulation shall have effect from such earlier or later date as may be specified in the regulations.”

THE INDUSTRIAL FINANCE CORPORATION
ACT, 1972

AN
ACT

further to amend the Industrial Finance Corporation Act, 1948

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

1. This Act may be called the Industrial Finance Corporation (Amendment) Act, 1972.

Short
title.

15 of 1948.

2. In section 2 of the Industrial Finance Corporation Act, 1948 (hereinafter referred to as the principal Act),—

Amend-
ment of
section 2.

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

“(ba) “Court” means the High Court (or where there is no High Court and the powers of the High Court are exercised by the Court of Judicial Commissioner, such Court) within the local limits of whose jurisdiction the defendant or respondent carries on the whole or a substantial part of his business, and where the Central Government has, by notification in the Official Gazette and subject to such restrictions, limitations and conditions as it thinks fit, empowered any Court of civil jurisdiction subordinate to the High Court to exercise all or any of the powers conferred by this Act, such Court;”;

(b) in clause (c), for the words “any public limited company”, the words “any limited company” shall be substituted;

(c) after clause (f), the following clause shall be inserted, namely:—

“(ff) “State co-operative bank” has the same meaning as in the Reserve Bank of India Act, 1934;”;

2 of 1934.

Amend-
ment of
section 4.

3. In section 4 of the principal Act,—

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

“(IA) On and from the commencement of the Industrial Finance Corporation (Amendment) Act, 1972, the authorised capital of the Corporation shall stand increased to twenty crores of rupees, divided into forty thousand shares of five thousand rupees each, and the shares representing the capital so increased may be issued, with the sanction of the Central Government, as and when the Corporation may deem fit.”;

(b) in sub-section (7), after the words “the Development Bank”, the words “the Reserve Bank” shall be inserted.

Amend-
ment of
section
10A

4. In section 10A of the principal Act, in sub-section (4), the words “Central Committee” wherever they occur shall, subject to such grammatical variations and omission of cognate expressions as may be necessary, be omitted.

Amend-
ment of
section 11.

5. In section 11 of the principal Act, in sub-section (4), for the words “the Central Committee or any other Committee”, the words “any Committee” shall be substituted.

Omission
of
section 14

6. Section 14 of the principal Act shall be omitted.

Amend-
ment of
section 17.

7. In section 17 of the principal Act,—

(a) in sub-section (1), the words “and of the Central Committee” shall be omitted;

(b) in sub-section (2),—

(i) the brackets and letter “(a)” shall be omitted;

(ii) sub-clause (b) shall be omitted;

(c) in sub-section (3), for the words “or of the Central Committee, each Director or member of the Committee, as the case may be,” the words “each Director” shall be substituted;

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

“(5) If for any reason the Chairman is unable to be present at a meeting of the Board, a Director authorised by the Chairman in writing in this behalf, shall preside at that meeting and in default of such authorisation, the Board may elect a Director to preside at that meeting.”.

Amend-
ment of
section 20.

8. In section 20 of the principal Act, the words “and the Corporation may also subscribe to, or purchase, the shares of any financial institution which the Central Government may, in consultation with the Development Bank, notify in this behalf” shall be added at the end.

9. In section 21 of the principal Act,——

(a) in the proviso to sub section (1), for the words “shall not at any time exceed ten times the amount of the paid-up share capital and the reserve fund of the Corporation”, the words, figures, letters and brackets “shall not at any time exceed ten times of such amount as is the aggregate of the paid-up share capital, the reserve fund established under sub-section (1) of section 32, the special reserve fund established under section 32A, the benevolent

Amend-
ment of
section 21.

reserve fund established under section 32B and any other reserves of the Corporation (not being reserves for bad and doubtful debts or for depreciation of assets or a reserve created or maintained to meet any specific contingency)" shall be substituted;

(b) to sub-section (2), the following proviso shall be added, namely:—

"Provided that no such guarantee by the Central Government shall be required in respect of such bonds and debentures of the Corporation as are issued to the Development Bank.";

(c) in the proviso to sub-section (4), for the words "shall not at any time in the aggregate exceed ten times the amount of the paid-up share capital and the reserve fund of the Corporation", the words "shall not at any time exceed, in the aggregate, the limit specified in the proviso to sub-section (1)" shall be substituted.

10. After section 21 of the principal Act, the following sections shall be inserted, namely:—

"21A. Notwithstanding anything contained to any other law for the time being in force, the bonds and debentures issued or sold by the Corporation shall be, and shall be deemed always to have been, approved securities for the purpose of the Indian Trust Act, 1882, the Insurance Act, 1938, and the Banking Regulation Act, 1949.

"21B. The right and interest of the Corporation (including any other rights incidental thereto) in relation to any loan or advance granted, or any amount recoverable, by it may be transferred by the Corporation, either in whole or in part, by the execution or issue of any instrument

Insertion
of new
sections
21A and
21B.

Bonds and
debentures
to be
approved
securities.

Power to
transfer
right.

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

or by the transfer of any instrument by endorsement or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred, and the Corporation may, notwithstanding such transfer, act as the trustee for the transferee.”.

Amend-
ment of
section 23

11. In section 23 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (b), the proviso shall be omitted;

(ii) in clause (d), the words “and retaining as part of its assets, any stocks, sharer, bonds or debentures which it may have to take up in fulfilment of its obligations thereto” shall be inserted at the end;

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

“(da) transferring for consideration any instrument relating to loans and advances granted by it to industrial concerns;”;

(iv) clause (h) shall be omitted;

(v) in clause (i),—

(a) in the proviso, for the words “which may at the option of the Corporation be convertible”, the words “the amounts outstanding thereon may be convertible at the option of the Corporation” shall be substituted;

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

“*Explanation.*—In this clause, the expression “the amounts outstanding thereon”, used in relation to any loan or

advance, shall mean the principal, interest and other charges payable on such loan or advance as at the time when the amounts are sought to be converted into stocks or shares;;

(vi) in clause (ii), the word "and" occurring at the end shall be omitted;

(vii) after clause (ii) as so amended, the following clause shall be inserted, namely:—

"(iii) doing any kind of business which the Central Government may, on the recommendation of the Development Bank, authorise; and";

(b) in sub-section (2),—

(i) for the words, brackets, letters and figure "No accommodation shall be given under clauses (a), (b), (c) and (t) of sub-section (1), unless it is secured by a sufficient", the words, brackets, letters and figure "In granting accommodation under clause (a), clause (b), clause (c) or clause (i) of sub-section (1), the Corporation may have it secured by" shall be substituted;

(ii) for the words "or unless it is guaranteed", the words "or may have it guaranteed" shall be substituted.

Amend-
ment of
section 24

12. In section 24 of the principal Act, for the words "with a single industrial concern for an amount exceeding two crores of rupees in the aggregate", the words "with any single industrial concern for an amount which, together with the amount outstanding in respect of any arrangement already entered into by the Corporation with that concern, exceeds two crores of rupees in the aggregate" shall be substituted.

13. In section 25 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

**Amend-
ment of
section 25.**

“(2) Where any arrangement entered into by the Corporation with an industrial concern provides for the appointment by the Corporation of one or more Directors of such industrial concern, such provision and any appointment of Directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the industrial concern, and any provision regarding share qualification, age limit, number of directorships, removal from office of Directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any Director appointed by the Corporation in pursuance of the arrangement as aforesaid.

(3) Any Director appointed in pursuance of sub-section (2) shall—

(a) hold office during the pleasure of the Corporation and may be removed or substituted by any person by order in writing by the Corporation;

(b) not incur any obligation or liability by reason only of his being a Director or for anything done or omitted to be done in good faith in the discharge of his duties as a Director or anything in relation thereto;

(c) not be liable to retirement by rotation and shall not be taken into account for computing the number of Directors liable to such retirement.”

14- Section 25 of the principal Act shall be re-numbered as sub-section (1) of that section and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

Amendment of section 25.

(2) The Corporation shall not enter into any kind of business with any Industrial concern of which any of the Directors of the Corporation is a Director, manager, agent, employee or guarantor or in which one or more Directors of the Corporation together hold substantial interest:

Provided that this sub-section shall not apply to any industrial concern if any Director of the Corporation—

1 of 1956.

(i) is nominated as a Director on the Board of such concern by Government, or a Government company as defined in section 617 of the Companies Act, 1956, or by a Corporation established by any other law, or

1 of 1966.

(ii) is elected on the Board of such concern by virtue of shares held in the concern by Government, or a Government company as defined in section 617 of the Companies Act, 1956, or by a Corporation established by any other law,

by reason only of such nomination or election, as the case may be.

Explanation.—“Substantial interest”, in relation to an industrial concern, means the beneficial interest held by one or more of the Directors of the Corporation or by any relative [as defined in clause (41) of section 2 of the Companies Act, 1956] of

such Director, whether singly or taken together, in the shares of the industrial concern, the aggregate amount paid-up on which either exceeds five lakhs of rupees or five per cent. of the paid-up share capital of the industrial concern, whichever is less.

I of 1956

(3) The provisions of sub-section (2)—

(i) shall not apply to any transaction relating to the business entered into prior to the commencement of the Industrial Finance Corporation (Amendment) Act, 1972, and all such business and any transaction in relation thereto may be implemented or continued as if that Act had not come into force;

(ii) apply only so long as the conditions precedent to such disability as set out in the said sub-section continue.’.

Amend.
ment of
section 27.

15. In section 27 in the principal Act, for sub-section (3) and sub-section (4), the following sub-sections shall be substituted, namely:—

“(3) All loans and advances granted to industrial concerns by the Corporation out of foreign currency borrowed under sub-section (1) shall be expressed in terms of foreign currency as equivalent of Indian currency, calculated in accordance with the rate of exchange prevailing at the time of grant thereof, and the amount due thereunder shall be repayable in equivalent Indian currency, calculated in accordance with the rate of exchange prevailing at the time of repayment of such loan or advance.

(4) Any loss or profit in connection with any borrowing of foreign currency under sub-section (1) for the purpose of granting loans and advances under this Act or with its repayment to the concerned foreign lending agency, on account of any fluctuations in the rate of exchange accruing—

(a) during the period within which the loan or advance is repayable by the industrial concern or the period of actual repayment thereof by the concern, whichever is longer, shall be reimbursed by, or paid to, as the case may be, the recipients of such loans and advances;

(b) after the expiry of the period specified in clause (a),—

(i) shall be borne by the Corporation in respect of normal market fluctuations in foreign exchange;

(iii) shall be reimbursed by, or paid to as the case may be, the Central Government in respect of fluctuations other than the normal market fluctuations in foreign exchange.

Explanation—If any question arises as to whether any fluctuation as aforesaid is a normal market fluctuation or not, the same shall be decided by the Central Government whose decision thereon shall be final.”

16. In section 28 of the principal Act,—

(a) in sub-section (1),—

(i) after the words “of any loan or advance or any instalment thereof”, the words “or in meeting its obligations in relation to any guarantee given by the Corporation” shall be inserted;

Amend-
ment of
section 28.

(i) for the words "right to take over the management of the concern," the words "right to take over the management, or possession, or both, of the concern" shall be substituted;

(b) in sub-section (3A),—

(i) for the words "Where the management of an industrial concern is taken over by the Corporation or any property is transferred and realised by it", the words "Where any action has been taken against an industrial concern" shall be substituted;

(ii) for the words "as incidental to such management, or transfer and realisation", the words "as incidental thereto" shall be substituted;

(iii) after the words "which is received by it", the words "from such management, or transfer and realisation" shall be omitted;

(c) in sub-section (4), after the words "over the management", the words "or possession" shall be inserted.

17. In section 30 of the principal Act,—

(a) in sub-section (1),—

(i) after the words "any default in repayment of any loan or advance or any instalment thereof", the words "or in meeting its obligations in relation to the guarantee given by the Corporation" shall be inserted;

(ii) for the words "the District Judge within the local limits of whose jurisdiction the industrial concern carries on the whole or a substantial part of its business", the words "the Court" shall be substituted;

Amend-
ment of
section 30.

(b) in sub-sections (3) to (9), for the words "the District Judge", wherever they occur, the words "the Court" shall be substituted;

(c) in sub-section (9) as so amended, in the second proviso, for the words "unless the High Court otherwise directs", the words "unless the Court empowered to hear appeals from the decisions of the said Court otherwise directs" shall be substituted;

(d) in sub-section (11), for the words "appeal to the High Court, and upon such appeal, the High Court may", the words "appeal to the Court empowered to hear appeals from the decisions of the Court which passed the order and the appellate Court may" shall be substituted;

(e) sub-section (13) shall be omitted;

(f) after sub-section (13) as so omitted, the following sub-sections shall be inserted, namely:—

"(14) For the removal of doubts, it is hereby declared that any Court competent to grant an *ad interim* injunction under this section shall also have the power to appoint a receiver and to exercise all other powers incidental thereto.

(15) All proceedings (whether by way of suits or appeals or other proceedings) under this Act pending before a District Judge or an Additional District Judge or a High Court at the commencement of the Industrial Finance Corporation (Amendment) Act, 1972, shall, on such commencement, be proceeded with and disposed of as if this section had not been amended by the said Act.

(16) Every suit or other proceedings which are disposed of in accordance with the provisions contained in sub-section (15) or in respect of which time for appeal has not expired at the commencement of the Industrial Finance Corporation (Amendment) Act, 1972, may, on such commencement, be appealed against as if this section had not been amended by the said Act.”.

Amend-
ment of
section 32.

18. In section 32 of the principal Act, in sub-section (2), the second proviso shall be omitted.

Insertion
of new
section
32B.

19. After section 32A of the principal Act, the following section shall be inserted, namely:—

Bene-
volent
reserve
fund.

“32B. (1) The Corporation shall establish a special fund, to be called the benevolent reserve fund;

(2) To the benevolent reserve fund shall be credited—

(a) any part of the annual profit which may, from time to time, be allocated to the fund;

(b) all amounts received for the purposes of the fund by way of loans, gifts, grants, donations or benefactions from Government or any other source;

(c) income or profits from investments made from the fund;

(d) income accruing or arising to the fund by way of interest or otherwise.

(3) The benevolent reserve fund shall be used by the Corporation—

(a) for meeting the cost of feasibility studies, project reports, market and

techno-economic surveys and such other purposes which, in the opinion of the Corporation, may promote the development of industries;

(b) in the field of development banking and in financial and industrial management—

(i) for undertaking and promoting research;

(ii) for training in India or abroad of personnel of financial institutions; and

(iii) for creating chairs in universities, academic institutions and research foundations;

(c) for assisting projects promoted by technologists and new entrepreneurs—

(i) by subsidising the normal lending rate of interest of the Corporation in respect of loans or advances sanctioned to them;

(ii) by providing technical and managerial assistance to projects promoted by them especially in less industrially developed regions;

(d) for rendering any assistance that may be ancillary or incidental to the aforementioned purposes.”

20. In section 39 of the principal Act, after the words “Every Director,” the words “member of any Advisory or other Committee,” shall be inserted.

Amendment of section 39.

21. In section 43 of the principal Act,—

Amendment of section 43.

(a) in sub-section (1), for the words, "after consultation with the Development Bank and with the previous sanction of the Central Government", the words "with the previous approval of the Development Bank" shall be substituted;

(b) in sub-section (2), in clause (e), for the words "Board and of the Central Committee," the word "Board," shall be substituted;

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

**THE INDIAN RAILWAYS
(AMENDMENT) ACT 1973**

**AN
ACT**

further to amend the Indian Railways Act, 1890.

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

1. This Act may be called the Indian Railways (Amendment) Act, 1973.

Short
title.

9 of 1973.

2. In section 47 of the Indian Railways Act, 1890 (hereinafter referred to as the principal Act),—

Amend-
ment of
section
47.

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

“(bb) for the cancellation of tickets (whether with reservation of accommodation or not), the circumstances under which, and the time-limit within which, such cancellation may be allowed and the charges payable therefor;”

(b) in sub-section (2), for the words “fifty rupees”, the words “one hundred and fifty rupees” shall be substituted.

(2) All charges levied and collected, or purported to have been levied and collected under the principal Act for cancellation of tickets (whether with reservation of accommodation or not) at any time before the commencement of this Act, shall be deemed to have been validly levied and collected in accordance with law and

accordingly no suit or other proceeding shall be maintained in any court for the refund of any such charges.

Amend-
ment of
section
82C

3. In section 82C of the principal Act,—

(a) in sub-section (1), for the words “may be made”; the words “may be made to the Claims Commissioner” shall be substituted;

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

“(2A) If an applicant desires to be paid interim relief under section 82HH, he may send to the railway administration a copy of the application made under sub-section (1) with a request for payment of such interim relief.”;

(c) in the *Explanation*, after the words, “In this section”, the words, figures and letters “and section 82HH,” shall be inserted.

Amend-
ment of
section
82E.

4. In section 82E of the principal Act, in the proviso to sub section (1),—

(a) in clause (ii), the word “and” shall be omitted;

(b) for clause (iii), the following clauses shall be substituted namely:—

“(iii) the payment by way of interim relief, if any, made to the applicant by the railway administration under section 82HH is not adequate; and

(iv) the amount of compensation directed to be paid under this section together with the payment by way of interim relief, if any, made under section 82HH is not likely to exceed the actual amount of compensation that may ultimately become payable.”.

Insertion
of new
section
82HH.

5. After section 82H of the principal Act, the following section shall be inserted, namely:—

Interim
relief by
railway
adminis-
tration.

“82HH. (1) Where on receipt of an application under sub-section (2A) of section 82C and after making such enquiry as it may deem fit, the railway administration is satisfied that circumstances exist which require relief to be afforded to an applicant for compensation immediately, it may, pending determination of the actual amount of compensation payable under section 82A, pay to any person who has sustained injury or suffered any loss, or where death has resulted from the accident, to any dependant of the deceased, such sum as it considers reasonable for affording such relief, so however, that the sum paid shall not exceed the amount of compensation payable at the rates prescribed under the rules made under section 82J.

(2) The railway administration shall, as soon as may be, after making an order regarding payment of interim relief under subsection (1), send a copy thereof to the Claims Commissioner.

(3) Any sum paid by the railway administration under sub-section (1) shall be taken into account by the Claims

Commissioner while determining the amount of compensation payable.”

6. In section 82I of the principal Act, for the figures and letter “82H”, the figures and letters “82HH” shall be substituted.

Amend-
ment of
section
82I

7. In section 108 of the principal Act, the following proviso shall be inserted at the end, namely:—

Amend-
ment of
section
108.

“Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the court, where a passenger, without reasonable and sufficient cause, makes use of the alarm chain provided by a railway administration, he shall be punished—

(a) in the case of conviction for the first offence, with fine which shall not be less than twenty-five rupees; and

(b) in the case of conviction for the second or subsequent offence, with imprisonment for a term which shall not be less than one month.”

8. In section 118 of the principal Act,—

Amend-
ment of
section
118.

(a) in sub-section (1), for the words “with fine which may extend to twenty rupees”, the words “with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both” shall be substituted;

(b) in sub-section (2), for the words “with fine which may extend to fifty

rupees", the words "with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred and fifty rupees, or with both" shall be substituted.

9. In section 120A of the principal Act,—

Amend-
ment of
section
120A.

(a) in sub-section (1), the following proviso shall be inserted at the end, namely:—

"Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the court, such fine shall be not less than fifty rupees.";

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

"(1A) If any person convicted of an offence under sub-section (1) commits a like offence afterwards, he shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred and fifty rupees, or with both.";

(c) in sub-section (2), after the word, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or sub-section (1A)" shall be inserted.

10. In section 122 of the principal Act,—

Amend-
ment of
section
122.

(a) in sub-section (1), for the words "with fine which may extend to twenty rupees", the words "with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both" shall be substituted;

(b) in sub-section (2), for the words "with fine which may extend to fifty rupees", the words "with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred and fifty rupees, or with both" shall be substituted.

Amend-
ment of
section
126.

11. Section 126 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so re-numbered, for the words "If a person unlawfully—", the words, brackets and figure "Subject to the provisions of sub-section (2), if a person unlawfully—" shall be substituted;

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

"(2) If a person unlawfully does any act or thing referred to in clause (a) or clause (b) or clause (c) or clause (d) or clause (e) of sub-section (1),—

(i) with intent to cause the death of any person and the doing of such act or thing causes the death of any person; or

(ii) with knowledge that such act or thing is so imminently dangerous that it must in all probability cause the death of any person or such bodily injury to any person as is likely to cause the death of such person,

he shall be punished with death or imprisonment for life."

Insertion
of new
section
126A.

12. After section 126 of the principal Act, the following section shall be inserted, namely :—

Damage
to, or
destruction of,
certain
railway
Properties

"126A. (1) Whoever, with intent to cause or knowing that he is likely to cause damage or destruction to any of the properties of a railway referred to in sub-section (2) causes by fire, explosive substance or otherwise, damage to such property to the amount of one hundred rupees or upwards, or destruction of such property, shall be punished with imprisonment for a term which may extend to ten years.

(2) The properties of a railway referred to in sub-section (1) are railway track, bridges, station buildings and installations, carriages or wagones, locomotives, signalling, telecommunication, electric traction and block equipments and such other properties as the Central Government, being of opinion that damage, thereto or destruction thereof is likely to endanger the operation of a railway, may, by notification in the Official Gazette, specify.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament immediately after it is made if it is in session and on the first day of the commencement of the next session of the House if it is not in session, and shall cease to operate at the expiration of forty days from the date of its being so laid or from the re-assembly of Parliament, as the case may be, unless before the expiration of that period a resolution approving the issue of the notification is passed by both Houses of Parliament.

Explanation.—Where the Houses of Parliament are summoned to re-assembly on different dates, the period of forty days shall be reckoned from the later of those dates.”

13. In section 131 of the principal Act, in sub-section (1), after the figures “126,” the figures and letter “126A,” shall be inserted.

Amend-
ment of
section
131.