Correction Section,

# CENTRAL ORDINANCES 1955. — 1967. F

- 1. The Essential Commodities Ordina ce, 1955.
- 2. Abducted Persons (Recovery and Restoration) Continuance Ordinance, 1955.
- 3. The Industrial Discutes (Appellate Tribunal) amendment Ordinance, 1955.
- 4. The State Bank of India (Amendment) Ordinance, 1955.
- 5. The Delhi (Control of Building Operations) Ordinance, 1955.
- 6. The Insurance (amendment) Ordinance, 1955.
- 7. The Representation of the People (Amendment)
  Ordinance, 1955

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1. The Compounds (Amendment) Ordinarie, 1062. 8. The Pondicherry (Administration) Ordinarie, 1962

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# CENTRAL ORDINANCES 1956.

- 1. The Life Insurance (Emergency Provisions) Ordinance, 1956.
- 2. The Madras Terminal Tax on Railway Passengers Ordinance, 1956.
- 3. The Sales Tax Laws Validation Ordinance, 1956.
- 4. The Travancore-Cochin Appropriation (Vote on Account) Ordinance, 1956.
- 5. The State Bank of Hyderabad Ordinance, 1956.
- 6. The Administration of Evacuee Property (Amendment) Ordinance, 1956.
- 7. The Displaced Persons (Compensation and Rehabilitation) Amendment Ordinance, 1956.
- 8. The Road Transport Corporation (Amendment) Ordinance, 1956.
- 9. The Re-presentation of the People (Amendment) Ordinance, 1956.

#### 1957.

- 1. The Foreigners Laws (Amendment) Ordinance, 1957
- 2. The Prevention of Coruption (Amendment) Ordinance, 1957.
- The Life Insurance Corporation (Amendment)
  Ordinance, 1957.
- 4. The Industrial Disputes (Amendment) Ordinance

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The Positischery (Administration) Orodinaries, 156.

- 5. The Essential Services Maintenance Ordinance, 1957.
- 6. The Reserve Bank of India (Amendment) Ordinance, 1957.

#### "1958"

- 1. The Armed Forces (Assam and Manipur) Special Powers Ordinance, 1958.
- 2. The Code of Criminal Procedure (Amendment) Ordinance, 1958.
- 3. The Working Journalists (Fixation of Rates Wages) Ordinance, 1958.
- 4. The Banaras Hindu University (Amendment) Ordinance, 1958.
- 5. The Sugar Export Promotion Ordinance, 1958.
- 6. The Mineral Oils (Additional Duties of Excise and Customs) Ordinance, 1958.
- 7. The Himachal Pradesh Legislative Assembly (constitution and Proceedings) Validation Ordinance, 1958.

1959:

- 1. The Indian Income Tax ( Amendment) Ordinace, 1959.
- 2. In Public waters Centarion of Limitation) ordinaire 1959.
- 3. In Sagan (Spenne Encise Duty) ordinario 1959.

The Componies (Amendment) Ordinance 11962.
The Pondicherry (Administration) Ordinance 11962.

1. The Exential Services Maintenance ordinance, 1960.

### 1961

- The U. P. Sugarcame Cess (Validation)
  Ordinance, 1961.
- The Banking Companies (Amendment) Ordinance, 1961.
- The Sugar ( Degulation of Production) Ordinance, 1961. [Repuled]

### 1962

- 1. The Ad 210 cats (Amendement ) Ordinance, 1962. [Repeated
- 2. The Goa Daman and Dia (Administration) Ordinare 1962 [Repealed]
- 3. The Land Acquisition (Amendment) Ordinance, 1962 for further Ordinances - See Emergency Supplement
- 4. The Defence of dodia Ordinance, 1962 1 Pepedod)
- S. The Foreigners Lean (Application And Amendment)
- Ordinance, 1962. [ Pepeded] 6. The Defence of India (Amendment) Ordisonue [ Depetiel :
- 7. The Componies (Amendment) ordinaries / 1062
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Act 10 of 1955 THE ESSENTIAL COMMODITIES ORDINANCE, 1955 (Published in the Gazette of India Extraordinary, Part II, Section 1, dated the 21st January, 1955.) No! ₹I ØF 1955 Promulgated by the President in the Fifth Year of the Republic of India. An Ordinance to provide, in the interests of the general public, for the control of the production, supply and distribution of, and trade and commerce in, certain commodities. W HEREAS the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), which confers powers to control the production supply and distribution of, and trade and commerce in, certain commodities, expires on the 26th day of January, 1955; Dellers And whereas it is necessary, in the interests of the general public, to provide for the continuance of such powers in relation to some of the commodities specified in that Act and certain other commodities; 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. Short title, extent and commencement.—(1) This Ordinance and be called the Essential Commodities Ordinance, 1955. It extends to the whole of India except the State of Jammu and Kashmir. (3) It shall come into force on the 26th day of January, 1955. 2 Definitions.—In this Ordinance, unless the context otherwise requires. (a) "essential commodity" means any of the following classes of commodities:-(i) coal, including coke and other derivatives; (ii) component parts and accessories of automobiles; (iii) cotton and woollen textiles; (iv) viron and steel, including manufactured products of iron and steel; (Price annas 2 or 36

- (v) paper, including newsprint, paper board and straw board;
  - (vi) petroleum and petroleum products;
  - (vii) salt;
  - (viii) sugar;
  - (ix) vanaspati;
  - (x) vegetable oils;

and includes any other class of commodity which the Central Government may, by notified order, declare to be an essential commodity for the purposes of this Ordinance, being a commodity with respect to which Parliament has power to make laws by virtue of entry 33 in List III in the Seventh Schedule to the Constitution;

- (b) "notified order" means an order notified in the Official Gazette;
- (c) "State Government" in relation to a Part C State means the Lieutenant Governor or the Chief Commissioner, as the case may be.
- 3. Powers to control production, supply, distribution, etc., of essential commodities.—(1) If the Central Government is of opinion that it is necessary or expedient so to do for maintaining or increasing supplies of any essential commodity or for securing their equitable distribution and availability at fair prices, it may, by order, provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein.
- (2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide
  - (a) for regulating by licences, permits or otherwise the production or manufacture of any essential commodity;
  - (b) for controlling the prices at which any essential commodity may be bought or sold;
  - (c) for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of any essential commodity;
  - (d) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale;
  - (e) for requiring any person holding in stock any essential commodity to sell the whole or a specified part of the stock to such person or class of persons and in such circumstances as may be specified in the order;
  - (f) for regulating or prohibiting any class of commercial or financial transactions relating to cotton textiles which, in the opinion of the authority making the order are, or, if unregulated, are likely to be, detrimental to the public interest;
  - (g) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

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- (h) for requiring persons engaged in the production, supply or distribution of, or trade and commerce in, any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order;
- (i) for any incidental and supplementary matters, including in particular the entering, and search of premises, vehicles, vessels and aircraft, the seizure by a person authorised to make such search of any articles in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents, and the charging of fees therefor.
- (3) Where any person sells any essential commodity in compliance with an order made with reference to clause (e) of sub-section (2), there shall be paid to him the price therefor as hereinafter provided:-
  - (a) where the price can, consistently with the controlled price, if any, fixed under this section, be agreed upon, the agreed
  - (b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;
  - (c) where neither clause (a) nor clause (b) applies, price calculated at the market rate prevailing in the locality at the date of sale.
- (4) If the Central Government is of opinion that it is necessary so to do for maintaining or increasing the production and supply of an essential commodity, it may, by order, authorise any person (hereinafter referred to as an authorised controller) to exercise, with respect to the whole or any part of any such undertaking engaged in the production and supply of the commodity as may be specified in the order such functions of control as may be provided therein and so long as such order is in force with respect to any undertaking or part thereof,—
  - (a) the authorised controller shall exercise his functions in accordance with any instructions given to him by the Central Government, so however that he shall not have any power to give any direction inconsistent with the provisions of any enactment or any instrument determining the functions of the persons in charge of the management of the undertaking except in so far as may be specifically provided by the order; and
  - (b) the undertaking or part shall be carried on in accordance with any directions given by the authorised controller under the provisions of the order, and any person having any functions of management in relation to the undertaking or part shall comply with any such directions.
  - (5) An order made under this section shall,—
  - (a) in the case of an order of a general nature or affecting a class of persons, be notified in the Official Gazette; and



- (b) in the case of an order directed to a specified individual, be served on such individual—
  - (i) by delivering or tendering it to that individual, or
  - (ii) if it cannot be so delivered or tendered, by affixing it on the outer door or some other conspicuous part of the premises in which that individual lives, and a written report thereof shall be prepared and witnessed by two persons living in the neighbourhood.
- 4. Powers to control inter-State trade and commerce in certain other commodities.—(1) This section applies to wheat, raw cotton (whether ginned or unginned), sugar-cane and any other commodity to which the Central Government may, by notified order, declare this section to apply.
- (2) If the Central Government is of opinion that it is necessary or expedient so to do for sccuring the equitable distribution and availability at fair prices of any commodity to which this section applies, it may, by notified order, provide for regulating by licences, permits or otherwise inter-State trade and commerce in any such commodity, and the notified order may prescribe forms and conditions of licences or permits for regulating such trade and commerce, the authorities by which such licences or permits may be granted, the fees that may be charged therefor and any other matter required to render effective the control over such trade and commerce.
- 5. Imposition of duties on State Governments, etc.—An order made under section 3 or section 4 may confer powers and impose duties upon the Central Government or the State Government or officers and authorities of the Central Government or State Government, and may contain directions to any State Government or to officers and authorities thereof as to the exercise of any such powers or the discharge of any such duties.
- 6. Delegation of powers.—The Central Government may, by notified order, direct that the power to make orders under section 3 shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by—
  - (a) such officer or authority subordinate to the Central Government, or
- (b) such State Government or such officer or authority subordinate to a State Government, as may be specified in the direction.
- 7. Effect of orders inconsistent with other enactments.—Any order made under section 3 or section 4 shall have effect notwith-standing anything inconsistent therewith contained in any enactment other than this Ordinance or any instrument having effect by virtue of any enactment other than this Ordinance.
- 8. Penalties.—(1) If any person contravenes any order made under this Ordinance,—
  - (a) he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine:

Provided that if the court is of opinion that a sentence of fine only will meet the ends of justice, it may, for reasons to be

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nent for a term ne liable to fine: t a sentence of or reasons to be recorded, refrain from imposing a sentence of imprisonment;

(b) any property in respect of which the order has been contravened or such part thereof as to the court may seem fit shall be forfeited to the Government:

Provided that if the court is of opinion that it is not necessary to direct forfeiture in respect of the whole or, as the case may be, any part of the property, it may, for reasons to be recorded, refrain from doing so.

(2) If any person to whom a direction is given under sub-section (4) of section 3 fails to comply with the direction he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

#### 9. False statements.—If any person,—

- (i) when required by any order under this Ordinance to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or
- (ii) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish,

he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

10. Offences by companies.—(1) If the person contravening an order under section 3 or section 4 is a company, every person who, at the time the contravention 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 contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an 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 also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) 'company' means any body corporate, and includes a firm or other association of individuals; and
- (b) 'director' in relation to a firm means a partner in the firm.

- 11. Cognizance of offences.—No court shall take cognizance of any offence punishable under this Ordinance except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code (Act XLV of 1860).
- 12. Special provision regarding fine.—Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Act V of 1898), it shall be lawful for any magistrate of the first class specially empowered by the State Government in this behalf and for any presidency magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening any order made under section 3 or section 4.
- 13. Presumption as to orders.—Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Ordinance, a court shall presume that such order was so made by that authority within the meaning of the Indian Evidence Act, 1872 (I of 1872).
- 14. Burden of proof in certain cases.—Where a person is prosecuted for contravening any order under section 3 or section 4 which prohibits him from doing any act or being in possession of a thing without lawful authority or without a permit, licence or other document, the burden of proving that he has such authority, permit, licence or other document shall be on him.
- 15. Protection of action taken under Ordinance.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order under section 3 or section 4.
- (2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order under section 3 or section 4.
- 16. Savings.—Any order made or deemed to be made under the Essential Supplies (Tempdrary Powers) Act, 1946 (XXIV of 1946), and in force immediately before the commencement of this Ordinance shall, in so far as such order may be made under this Ordinance, be deemed to be made under this Ordinance and continue in force, and accordingly any appointment made, licence or permit granted or direction issued under any such order and in force immediately before such commencement shall continue in force unless and until it is superseded by any appointment made, licence or permit granted or direction issued under this Ordinance.

RAJENDRA PRASAD.

President.

ORD. 1 OF 1955]

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)RA PRASAD, President. REGISTERED No. D. 221

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# EXTRAORDINARY PART II—Section 1

#### PUBLISHED BY AUTHORITY

No. 36]

NEW DELHI, MONDAY, MAY 30, 1955

#### MINISTRY\OF LAW

New Delhi, the 30th May, 1955

THE ABDUCTED PERSONS (RECOVERY AND RESTORA-TION) CONTINUANCE ORDINANCE, 1955

No. 2 of 1955

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

An Ordinance to continue the Abducted Persons (Recovery and Restoration) Act, 1949, for a further period.

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 Abducted Persons (Recovery Short title and Restoration) Continuance Ordinance, 1955

(2) It shall come into force at once.

2. During the period of operation of this Ordinance, the Abducted Amend-Persons (Recovery and Restoration) Act, 1949, shall have effect as if in ment of section 1, sub-section (3) of section 1, for the words and figures '31st day of May, Act LXV 1955', the words and figures '30th day of November, 1955' had been subs-of 1949. tituted.

RAJENDRA PRASAD,

President.

K. Y. BHANDARKAR, Secy. to the Govt. of India.

(283)

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REGISTERED No. D. 221

The Gazette



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EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 38 ]

NEW DELMI, TUESDAY, JUNE 21, 1955

#### MINISTRY OF LAW

New Delhi, the 21st June, 1955

THE INDUSTRIAL DISPUTES (APPELLATE TRI-BUNAL) AMENDMENT ORDINANCE, 1955

No. 3 of 1955

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

An Ordinance to amend the Industrial Disputes (Appellate Tribunal) Act, 1950.

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

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

1. (1) This Ordinance may be called the Industrial Disputes Short (Appellate Tribunal) Amendment Ordinance, 1955.

and com mencement.

- (2) It shall come into force at once.
- 2. During the period of operation of this Ordinance, the Indus- Insertion of trial Disputes (Appellate Tribunal) Act, 1950, shall have effect as if new section after section 23, the following sections had been inserted, namely:

"23A. Notwithstanding anything contained in section 8, the Disposal c Chairman or any other member specially authorised in this be- ceedings b half by the Chairman may sitting singly dispose of any proceed- a ing pending before the Appellate Tribunal under section 22 or sitting sing ly. section 23 and may, in the disposal of such proceeding, exercise all or any of the powers of the Appellate Tribunal.

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23B. (1) Notwith tanding anything contained in this Act, the Chairman may, by general or special order in writing, transfer any proceeding pending before the Appellate Tribunal under section 22 or section 23 to any of the industrial tribunals specified in this behalf by the Central Government for disposal of the proceeding, and the industrial tribunal to which the proceeding is so transferred may, subject to any special directions in the order of transfer, proceed either de novo or from the stage at which it was transferred, and shall dispose of the proceeding as if it were a proceeding under section 33 or, as the case may be, section 33A of the Industrial Disputes Act, 1947 XIV of 1947 and the provisions of that Act shall apply accordingly.

contained in section 7, no (2) Notwithstanding anything appeal shall lie to the Appellate Tribunal from any order or award of an industrial tribunal made in any proceeding transferred to it under the provisions of sub-section (1)."

RAJANDRA PRASAD.

President.

K. Y. BHANDARKAR, Secy. to the Govt. of India.

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REGISTERED NO. D. 221

# The Gazette



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# HXTRAORDINARY RART II—Section 1

#### PUBLISHED BY AUTHORITY

No. 39]

#### NEW DELHI, THURSDAY, JUNE 23, 1955

#### MINISTRY OF LAW

New Delhi, the 23rd June, 1955.

THE STATE BANK OF INDIA (AMENDMENT)
ORDINANCE, 1955

No. 4 of 1955

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

An Ordinance to amend the State Bank of India Act, 1955.

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 State Bank of India Short title and commencement.

  (Amendment) Ordinance, 1955.
  - (2) It shall come into force at once
- 2. The State Bank of India Act, 1955 (hereinafter referred to as Act 23 of the principal Act), shall, from its commencement, have effect subin sections 3 to 6.

  3. to 6.

3. In sub-section (3) of section 16 of the principal Act, after the Amendment words "in existence", the words "in India" shall be inserted.

of section 16, Act 23 or 1955.

321)

NEW DELHI ELHI, 1955 Substitution of new section for section 51 in Act 23 of 1955.

4. For section 51 of the principal Act, the following section shall be substituted, namely:—

Requirements of foreign law to be complied with in certain cases. "51. If, according to the laws of any country outside India, the provisions of this Act by themselves are not effective to transfer to and vest in the State Bank any asset or liability which forms part of the undertaking of the Imperial Bank and which is situate in that country, the Imperial Bank shall take all such steps as may be required by the laws of that country for the purpose of effecting or perfecting such transfer and vesting, and in connection therewith the Imperial Bank may realise any asset and discharge any liability and transfer the net proceeds thereof to the State Bank."

Insertion of new sections 54, 55, 56 and 57 in Act XLVII of 1920.

5. After section 53 of the principal Act, the following sections shall be inserted, namely:—

Amendment of Act XLVII of 1920. "54. The Imperial Bank of India Act, 1920, shall be amended in the manner directed in the Fifth Schedule.

No proceeding to lie in India against Imperial Bank after appointed day.

55. On and from the appointed day, no person shall make any claim or demand or take any proceeding in India against the Imperial Bank or a director, officer or other employee thereof in his capacity as such director, officer or employee except in so far as it may be necessary for enforcing the provisions of this Act or except in so far as it relates to any offence committed by any such director, officer or employee.

References to the Imperial Bank, the Bank of Bengal, etc., in other laws. 56. On and from the appointed day, any reference to the Imperial Bank or to the Bank of Bengal, the Bank of Madras or the Bank of Bombay in any law (other than this Act or the Imperial Bank of India Act, 1920) or in any contract or other instrument shall, except as otherwise provided in any general or special order made by the Central Government, be deemed to be a reference to the State Bank.

Dissolution of Imperial Bank, etc:

- 57. (1) On such day as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Imperial Bank shall stand dissolved, and the Imperial Bank of India Act, 1920, shall stand repealed.
- (2) On the day specified in the notification under sub-section (1), the State Bank shall pay to the Reserve Bank of India a sum of ten lakhs of rupees."

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b-section India a 6. After the Fourth Schedule to the principal Act, the following Insertion of Schedule shall be added:

Schedule shall be added:

1. Compare the following Insertion of new Schedule in Act 23 of 1955.

#### "THE FIFTH SCHEDULE

See section 547

AMENDMENTS TO THE IMPERIAL BANK OF INDIA ACT, 1920.

Section 2.—(a) Omit clauses (d), (f), (g) and (ii).

Sec. 1]

© 23 of 1955.

(b) For clauses (j), (k), (l) and (m), substitute:—

"(j) 'State Bank' means the State Bank of India constituted under the State Bank of India Act, 1955".

Section 3.—(a) In sub-section (2), for the words "Every person who, immediately before the appointed day, was registered as a shareholder or as a holder of stock in any of the Presidency Banks, together with such other persons as may from time to time become shareholders in the Bank in accordance with the provisions of this Act, shall, as long as they are shareholders in the Bank", substitute the following, namely:—"The persons who for the time being are holding office as chairman, vice-chairman and managing director of the State Bank shall".

- (b) For sub-section (3), substitute—
- "(3) The capital of the Bank shall consist of ten lakhs of rupees which shall be paid to the Bank by the Reserve Bank of India on the 1st day of July, 1955."
- (c) Omit sub-section (4)

Omit sections 4, 5, 6, 7, 13, 13A, 14, 15, 16, 17, 18, 19 and 20.

For section 23, substitute the following: —

"23. The Bank shall have its Head Office in Bombay."

Head Office of the Bank.

For section 24, substitute—

- "24. (1) The General superintendence of the affairs and General business of the Bank shall be entrusted to the chairman for the superintendence of time being of the State Bank who may exercise all powers and affairs and do all such acts and things as may be exercised or done by the Bank or which, immediately before the 1st day of July, 1955, were required or permitted to be exercised or done by the Central Board or by any Local Board of the Bank.
- (2) Any of the powers or functions conferred on the chairman of the State Bank by sub-section (1) may be exercised or

performed by any such officer or other employee of the State Bank as may be authorised by the chairman by general or special order."

Omit sections 25, 26, 27, 28 and 29.

Section 31.—In subsection (2), omit clauses (a) to (j).

Section 32.—Omit sub-section (2).

Insertion of new section 32A.

After section 32, insert the following:—

Persons authorised to act on behalf of Bank.

"32A. (1) Every person (other than the Managing Director and Deputy Managing Director) who, immediately before the 1st day of July, 1955, has authority conferred by any notification issued under Regulation 51 of Schedule II or under bye-law 26 made under section 31 or under any power of attorney granted by the Bank to sign any instrument or perform or do any act or thing for and on behalf of the Bank, shall, on and from the aforesaid date, continue to have the same authority, and shall not, by reason of anything dontained in the State Bank of India Act, 1955, be deemed to have vacated any office or employment held by him in the Bank immediately before the aforesaid date in 23 of 1955. connection with which such authority has been conferred on him, but the Bank may at any time revoke any such authority.

(2) Without prejudice to any other provision contained in this Act, the Bank may, by power of attorney, empower any person for and on behalf of the Bank to execute any instrument or to exercise any right or to perform or do any act or thing which may be executed, exercised, performed or done by the Bank."

#### In Schedule II—

- (a) Omit Regulations 1 to 48.
- (b) For Regulation 49, substitute—

Common seal.

. "49. The common seal of the Bank shall not be affixed to any instrument except in the presence of the chairman or the vice-chairman or a managing director of the State Bank, who shall sign his hame to the instrument in token of his presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness, and unless so signed, such instrument shall be of no validity."

(c) In Regulation 51, for the words "The Managing Director and Deputy Managing Director, the secretaries and such other employees", substitute the words "Such employees".

[PART II

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(d) To Regulation 52, add the following:-

"Provided that nothing contained in this Regulation shall have effect in relation to the holding of any office by, or the employment of any such person in, the State Bank".

- (e) In Regulation 54(2), omit \signed by a majority of the Directors".
- (f) Omit Regulations 55, 56, 57, 58, 60(2) 60A, 61, 62, 63 and 64.
  - (g) For Regulation 65, substitute the following:—

    "65. A notice may be served on the Bank by leaving it Service of notice on Bank."

    at, or sending it by post to, the Head Office of the Bank."

RAJENDRA PRASAD,

President.

KY. BHANDARKAR, Secy. to the Govt. of India.

PRINTED IN INDIA BY THE MANAGER, GOVT. OF INDIA PRESS, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1955



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# The Gazette



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#### EXTRAORDINARY

PART II-Section I

PUBLISHED BY AUTHORITY

No. 54] NEW DELHI, SATURDAY, OCTOBER 22, 1955

#### MINISTRY OF LAW

New Delhi, the 22nd October, 1955

THE DELHI (CONTROL OF BUILDING OPERATIONS)
ORDINANCE, 1955

No. \$ of 1955

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

An Ordinance to provide for the control of building operations in Delhi.

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 Delhi (Control of Short title, extent and commence.

  1. (1) This Ordinance may be called the Delhi (Control of Short title, extent and commence.
  - (2) It extends to the whole of the State of Delhi.
  - (3) It shall come into force at once.
  - 2. In this Ordinance, unless the context otherwise requires,—

Definitions.

(a) 'amenity' includes roads, water supply, street lighting, drainage, sewerage, public parks and any other convenience

(461)

which the Authority constituted under section 3 may, by notification in the Official Gazette, specify to be an amenity for the purposes of this Ordinance;

- (b) 'building' means any structure or erection or part of a structure or erection which is intended to be used for residential, commercial, industrial or other purposes, whether in actual use or not;
- (c) 'controlled area' means any area in respect of which a declaration has been made under section 4;
- (d) 'Delhi' except where it occurs in the expression 'State of Delhi', means such area in the State of Delhi as the Central Government may, by notification in the Official Gazette, specify;
- (e) 'development', with its grammatical variations and cognate expressions, means the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change in any buildings or land;
- (f) 'prescribed' means prescribed by regulations made under this Ordinance;
- (g) 'to erect' in relation to any building has the same meaning as the expression 'to erect or re-erect' in clause (5) of section 3 of the Punjab Municipal Act, 1911.

Punjab Act III of 1911.

The Delhi Development Provisional Authority.

- 3. (1) The Central Government shall, as soon as may be after the commencement of this Ordinance, constitute for the purposes of this Ordinance an authority to be called the Delhi Development Provisional Authority (hereafter in this Ordinance referred to as the Authority).
- (2) The Authority shall consist of the following members, namely:—
  - (a) the Chief Commissioner of the State of Delhi, ex officio, who shall be the Chairman of the Authority;
  - (b) three representatives of the Central Government to be nominated by that Government, one from the Ministry of Finance, one from the Ministry of Health and one from the Ministry of Works, Housing and Supply;
  - (c) two representatives of the Delhi State Government to be nominated by that Government;
  - (d) the President of the New Delhi Municipal Committee, ex officio;

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- Delhi Municipal Committee, (e) the President of the ex officio;
- Delhi Improvement. Trust, (f) the Chairman of the ex officio.
- (3) The number of members necessary to form a quorum and the procedure to be followed by the Authority in the conduct of its business shall be such as may be prescribed.
- (4) The functions of the Authority may be exercised notwithstanding any vacancy therein.
- (5) The Chairman of the Delhi Improvement Trust besides being a member of the Authority shall also be the Secretary thereof; and the Central Government shall provide the Authority with such clerical and other staff as that Government considers necessary.
- (6) All action taken by the Authority shall be expressed to be taken in the name of the Authority; and orders and other instruments made and executed in the name of the Authority shall be authenticated in such manner as may be prescribed and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Authority.
- 4. If, in the opinion of the Authority, any area within Delhi Declaration requires to be controlled under this Ordinance with a view to the area. prevention of bad laying out of land, haphazard erection of buildings or growth of sub-standard colonies or with a view to the development and expansion of Delhi according to proper planning, it may, by notification in the Official Gazette, declare the area to be a controlled area.
- 5. The Authority may, by notification in the Official Gazette, issue Power to in relation to any controlled area such directions as may be con- issue directions in res sidered necessary regarding any one or more of the following pect of controlled matters, namely:areas.
  - (a) the division of any site into plots for the erection of buildings and the manner in which such plots may be allotted to intending purchasers or lessees;
  - (b) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets and other public purposes;
  - (c) the development of any site into a township or colony and the restrictions and conditions subject to which such development may be undertaken or carried out;

- (d) the erection of buildings on any site and the restrictions and conditions in regard to the open spaces to be maintained in or around buildings and the height and character of buildings;
  - (e) the alignment of buildings on any site;
- (f) the architectural features of the elevation or frontage of any building to be erected on any site;
- (a) the number of residential buildings which trected on any site;
- (h) the amenities to be provided in relation to any site or buildings on such site whether before or after the erection of buildings and the person or authority by whom such amenities are to be provided;
- (i) the prohibition or restrictions regarding erection of shops, workshops, warehouses or factories or buildings of a specified architectural feature or buildings designed for particular purposes in any locality;
- (j) the maintenance of walls, fences, hedges or any other structural or architectural construction and the height at which they shall be maintained;
- (k) the restrictions regarding the use of any site for purposes other than the erection of buildings;
- necessary for the proper (l) any other matter which is planning of any controlled area and for preventing buildings being erected haphazardly in such area.

Control of areas.

6. No person shall undertake or carry out the development of and building any site in any controlled area or erect any building or make or operations extend any excavation or lay out any means of access to a road in in controlled such area except in accordance with the directions, if any, issued under section 5 and with the previous permission of the Authority. in writing.

Application for permission.

- 7. (1) Every person desiring to obtain the permission referred to in section 6 shall make an application in writing to the Authority in such form and containing such information as may be prescribed in respect of the development, building, excavation or means of access to which the application relates.
- (2) On receipt of such application the Authority, after making such enquiry as it considers necessary in relation to any direction which may have been issued under section 5 or in relation to any

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other matter, shall, by order in writing, either grant the permission, subject to such conditions, if any, as may be specified in the order or refuse to grant such permission.

- (3) Where permission is refused, the grounds of such refusal shall be communicated to the applicant in the prescribed manner.
- 8. The Authority may authorise any person to enter into or upon Powers of any site or building with or without assistants or workmen for the entry on buildings or purpose of—

- (a) making any enquiry, inspection, measurement or survey or taking levels of such site or building;
- (b) examining works under construction or ascertaining the course of sewers or drains;
- (c) ascertaining whether any site is being or has been developed or any building is being or has been erected in contravention of any direction issued under section 5 or without the permission referred to in section 6 or in contravention of any condition subject to which such permission has been granted:

Provided that no entry shall be made except between the hours of sun-rise and sun-set and without giving not less than twenty-four hours written notice to the occupier, or if there be no occupier, to the owner of the building or land.

- 9. (1) Any person who undertakes or carries out the development of any site or erects any building or makes or extends any excavation or lays out any means of access to a road in contravention of any direction issued under section 5 or without the permission referred to in section 6 or in contravention of any condition subject to which such permission has been granted shall be punishable with fine which may extend to ten thousand rupees and in the case of a continuing offence, with a further fine which may extend to five hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.
- (2) Any person who obstructs the entry of a person authorised under section 8 to enter into or upon any building or land or molests such person after such entry shall be punishable with fine which may extend to one thousand rupees.
- (3) If the person committing an offence under this Ordinance is a company, every person who, at the time the offence was committed,

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was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

(4) Notwithstanding anything contained in sub-section (3), where an 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 or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) 'company' means a 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.

Order of demolition of buildings in certain 10. Where the erection of any building has been commenced or is being carried on or has been completed in contravention of any direction issued under section 5 or without the permission referred to in section 6 or in contravention of any condition subject to which such permission has been granted, the Authority may, in addition to any prosecution that may be instituted under this Ordinance, make an order directing that such erection shall be demolished by the owner thereof within such period not exceeding two months as may be specified in the order, and on the failure of the owner to comply with the order the Authority may itself cause the erection to be demolished and the expenses of such demolition shall be recoverable from the owner in the same manner as an arrear of land revenue:

Provided that no such order shall be made unless the owner has been given an opportunity of being heard.

Jurisdiction of courts.

11. No court inferior to that of a magistrate of the first class shall try an offence punishable under this Ordinance.

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12. No prosecution for any offence punishable under this Ordi-Previous nance shall be instituted except with the previous sanction of the sanction of the Authority of the Autho Authority or an officer authorised by the Authority in this behalf.

authorised by it for prosecution.

13. Notwithstanding anything contained in section 32 of the Code Magisrate's of Criminal Procedure, 1898, it shall be lawful for any court of a impose magistrate of the first class to pass any sentence authorised by this enhanced Ordinance in excess of its powers under the said section.

14. The Authority may, by notification in the Official Gazette, Powerto direct that any power exercisable by it under this Ordinance may delegate also be exercised in such cases and subject to such conditions, any, as may be specified in the notification, by such officer as may be mentioned therein.

15. Any order made under sub-section (2) of section 7 refusing Orders or granting any permission shall be final and shall not be questioned granting in any court:

per mission to be final.

Provided that where the power exercisable under sub-section (2) of section 7 has been delegated to any officer referred to in section 14, any person aggrieved by an order of such officer may, within thirty days from the date of such order, prefer an appeal to the Authority; and the order of the Authority on appeal shall be final and shall not be questioned in any court.

16. No suit, prosecution or other legal proceeding shall lie against Protection any person for anything which is in good faith done or intended to of action taken in be done under this Ordinance or the regulations made thereunder. good faith.

17. The provisions of this Ordinance shall have effect notwith-Effect of standing anything inconsistent therewith contained in any other provisions of the Ordilaw.

nance inconsistent with other laws.

18. Nothing in this Ordinance shall apply to-

Savings.

- (a) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;
- (b) the carrying out by any local authority in the State of Delhi or the Delhi Improvement Trust or any Department of the Central Government or of the Delhi State Government of any works for the purpose of inspecting, repairing, or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;

- (c) the erection of a building, not being a dwelling house if such building is required for the purposes subservient to agriculture;
- (d) the erection of buildings upon land included in the inhabited site of any village as defined in revenue records;
- (e) the erection of a place of worship or a tomb or cenotaph or of a wall enclosing a graveyard, place of worship, cenotaph or samadhi, on land which at the commencement of this Ordinance is occupied by or for the purposes of such place of worship, tomb, cenotaph, graveyard or samadhi;
- (f) excavations (including wells) made in the ordinary course of agricultural operations;
- (g) the construction of unmetalled road intended to give access to land solely for agricultural purposes.

Power to 19. (1) The Authority, with the previous approval of the Central make regulations.

Government, may, by notification in the Official Gazette, make regulations to carry out the purposes of this Ordinance:

Provided that the Central Government may make the first regulations under this section and any regulation so made may be altered or rescinded by the Authority in exercise of the powers conferred by this section.

- (2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—
  - (a) the summoning and holding of meetings of the Authority, the time and place where such meetings are to be held, the procedure to be followed by the Authority, the conduct of all business to be transacted by the Authority and the number of members necessary to form a quorum;
  - (b) the manner of authentication of orders and other instruments of the Authority;
  - (c) the form in which an application under sub-section (1) of section 7 shall be made and the information to be furnished in such application;
  - (d) the regulation of the laying out of means of access to roads:
  - (e) the principles under which applications for permission under this Ordinance may be granted;

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- (f) the officers to whom powers may be delegated under section 14;
  - (g) any other matter which has to be, or may be, prescribed.
- (3) All regulations made under this Ordinance shall, as soon as may be after they are made, be laid before both Houses of Parliament.

RAJENDRA PRASAD,

President.

K. Y. BHANDARKAR, Secy. to the Govt. of India.



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# The Gazette



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#### EXTRAORDINARY PART II-Section 1 PUBLISHED BY AUTHORITY

No. 57]

#### NEW DELHI, TUE\$DAY, NOVEMBER 1, 1955

#### MINISTRY OF LAW

New Delhi, the 1st November, 1955

THE INSURANCE (AMENDMENT) ORDINANCE, 1955

No. 6 of 1955

Promulgated by the President in the Sixth Year of the Republic of India

An Ordinance further to amend the Insurance Act, 1938.

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 Insurance (Amendment) Ordinance, 1955.

Short title and commencement.

(2) It shall come into force at once.

IV of 1938.

2. In the Insurance Act, 1938 (hereinafter referred to as the Insertion of principal Act), after section 52B, the following section shall be new section 52B. inserted, namely:-

"52BB. (1) If the Administrator is satisfied that any person Powers of has rendered himself liable to be proceeded against under section Administra-106, he may, pending the institution of proceedings against such ing property person under that section, by order in writing, prohibit him or liable to attachment any other person from transferring or otherwise disposing of any under section property which, in the opinion of the Administrator, would be 106. · liable to attachment in proceedings under that section.

(483)

- (2) Any person aggrieved by an order made by the Administrator under sub-section (1) may, within fourteen days from the date on which the order is served on him, appeal against such order to the Central Government, and the Central Government may pass such order thereon as it thinks fit.
- (3) An order made by the Administrator under sub-section (1) shall, subject to any order made by the Central Government on appeal, be in force for a period of three months from the date of the order unless, before the expiry of the said period, an application is made under sub-section (1) of section 106 to the court competent to exercise jurisdiction under that sub-section, and when such an application is made, the order shall, subject to any order made by that court, continue in force as if it were an order of attachment made by that court in proceedings under that section.
- (4) An order made by the Administrator under this section shall,—
  - (a) in the case of an order affecting a corporation or firm, be served in the manner provided for the service of summons in rule 2 of Order XXIX or rule 3 of Order XXX, as the case may be, in the First Schedule to the Code of Civil Procedure, 1908, and

VII of 1908. peing

- (b) in the case of an order affecting a person not being a corporation or firm, be served on such person—
  - (i) personally, by delivering or tendering to him the order, or
    - (ii) by post, or
  - (iii) where the person cannot be found, by leaving a copy of the order with some adult male member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or personally worked for gain,

and every such order shall also be published in the Official Gazette.

(5) If any question arises whether a person was duly served with an order under sub-section (4), the publication of the order in the Official Gazette shall be conclusive proof that the order was so served, and a failure to comply with the provisions of clause (a) or clause (b) of sub-section (4) shall not affect the validity of the order.

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(6) Notwithstanding anything contained in this section, any property in respect of which an order has been made by the Administrator may, with the previous permission of the Administrator and subject to such terms and conditions as he may impose, be transferred or otherwise disposed of.

(7) Notwithstanding anything contained in any other law for the time being in force, the transfer or other disposition of any property in contravention of any order made by the Administrator under this section or of any terms and conditions imposed by him shall be void.

(8) For the purpose of enabling him to form an opinion as to whether any property would be liable to attachment in proceedings under section 106 or for the purpose of enabling him to institute proceedings under that section, the Administrator may require any person to furnish information on such points or matters as in the opinion of the Administrator may be relevant for the purpose, and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 of the Indian Penal Code.

(9) The Administrator shall have all the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:—

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

(b) requiring the production of documents; and

(c) receiving evidence on affidavits; and any proceeding before the Administrator under this section shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

(10) Save as provided in this section or in section 106, and notwithstanding anything contained in any other law for the time being in force,-

(a) no suit or other legal proceeding shall lie in any court to set aside or modify any order of the Administrator or the Central Government made under this section, and

(b) no court shall pass any decree, grant any injunction or make any other order which shall have the effect of nulifying or affecting in any way any such order.".

3. In section 52G of the principal Act, in sub-section (1), for the Amendment words and figures "sections 52A to 52C inclusive", the following shall of section 52G. be substituted, namely:-

"section 52A, section 52B, section 52BB or section 52C".

XLV of 1860.

. V of 1908.

XLV of 1860.

Substitution of new section for section 106.

4. For section 106 of the principal Act, the following section shall be, and shall be deemed always to have been, substituted, namely:—

Power of court to order restoration of property of insurer or compensation in certain cases.

- "106. (1) If, on the application of the Controller or an Administrator appointed under section 52A or an insurer or any policy-holder or any member of an insurance company or the liquidator of an insurance company (in the event of the insurance company being in liquidation), the court is satisfied—
  - (a) that any insurer (including in any case where the insurer is an insurance company any person who has taken part in the promotion or formation of the insurance company or any past or present director, managing agent, manager, secretary or liquidator) or any officer, employee or agent of the insurer,—
    - (i) has misapplied or retained or become liable or become accountable for any money or property of the insurer; or
    - (ii) has been guilty of any misfeasance or breach of trust in relation to the insurer; or
  - (b) that any person, whether he is or has been in any way connected with the affairs of the insurer or not, is in wrongful possession of any money or property of the insurer or having any such money or property in his possession wrongfully withholds it or has converted it to any use other than that of the insurer; or
  - (c) that, by reason of any contravention of the provisions of this Act, the amount of the controlled fund within the meaning of section 27A has been diminished;

the court may examine any such insurer, director, managing agent, manager or liquidator or any such officer, employee or agent of the insurer or such other person, as the case may be, and may compel him to contribute such sums to the assets of the insurer by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust as the court thinks fit, or to pay such sum as may be found due from him in respect of any money or property of the insurer for which he is liable or accountable or to restore any money or property of the insurer or any part thereof, as the case may be; and where the amount of the controlled fund has been diminished by reason of any

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contravention of the provisions of this Act, the court shall have power to assess the sum by which the amount of the fund has been diminished and to order the person guilty of such contravention to contribute to the fund the whole or any part of that sum by way of compensation; and in any of the aforesaid cases the court shall have power to order interest to be paid at such rate and from such time as the court may deem fit.

- (2) Without prejudice to the provisions contained in subsection (1) or sub-section (3), where it is proved that any money or property of an insurer has disappeared or has been lost, the court shall presume that every person in charge of, or having a disposing power over, such money or property at the relevant time (whether a director, manager, principal officer or any other officer) has become accountable for such money or property within the meaning of sub-clause (i) of clause (a) of subsection (1), and the provisions of that sub-section shall apply accordingly, unless such person proves that the money or property has been utilised or disposed of in the ordinary course of the business of the insurer and for the purpose of that business or that he took all reasonable steps to prevent the disappearance or loss of such money or property or otherwise satisfactorily accounts for such disappearance or loss.
- (3) Where the insurer is an insurance company and any of the acts referred to in clauses (a), (b) and (c) of sub-section (1) has been committed by any person, every person who was at the relevant time a director, managing agent, manager, liquidator, secretary or other officer of the insurance company shall, for the purposes of that sub-section, be deemed to be liable for that act in the same manner and to the same extent as the person who has committed the act, unless he proves that the act was committed without his consent or connivance and was not facilitated by any neglect or omission on his part.
- (4) Where at any stage of the proceedings against any person under this section (hereinafter referred to as the delinquent), the court is satisfied by affidavit or otherwise—
  - (a) that a *prima facie* case has been made out against the delinquent; and
  - (b) that it is just and proper so to do in the interests of the policy-holders of an insurer or of the members of an insurance company,

the court may direct the attachment of-

- (i) any property of the insurer in the possession of the delinquent,
- (ii) any property of the delinquent which belongs to him or is deemed to belong to him within the meaning of sub-section (5);
- (iii) any property transferred by the delinquent within two years before the commencement of proceedings under sub-section (1) or during the pendency of such proceedings, if the court is satisfied by affidavit or otherwise that the transfer was otherwise than in good faith and for consideration.
- (5) For the purposes of sub-section (4), the following classes of property shall be deemed to belong to a delinquent,—
  - (a) any property standing in the name of any person which by reason of the person being connected with the delinquent, whether by way of relationship or otherwise, or on account of any other relevant circumstances appears to belong to the delinquent;
  - (b) the property of a private company in respect of the affairs of which the delinquent, by himself or through his nominees, relatives, partners or persons interested in any shares of the company, is able to exercise or is entitled to acquire control, whether direct or indirect.

Explanation.—For the purposes of this section a person shall be deemed to be a nominee of a delinquent, if, whether directly or indirectly, he possesses on behalf of the delinquent, or may be required to exercise on the direction or on behalf of the delinquent, any right or power which is of such a nature as to enable the delinquent to exercise or to entitle the delinquent to acquire control over the company's affairs.

(6) Any claim to any property attached under this section or any objection to such attachment shall be made by an application to the court, and it shall be for the claimant or objector to adduce evidence to show that the property is not liable to attachment under this section, and the court shall proceed to investigate the claim or objection in a summary manner.

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- (7) When disposing of an application under sub-section (1), the court shall, after giving all persons who appear to it to be interested in any property attached under this section an opportunity of being heard, make such order as it thinks fit respecting the disposal of any such property for the purpose of effectually enforcing any liability under this section, and all such persons shall be deemed to be parties to the proceedings under this section.
- (8) In any proceedings under this section the court shall have full power and exclusive jurisdiction to decide all questions of any nature whatsoever arising thereunder and, in particular, with respect to any property attached under this section, and no other court shall have jurisdiction to decide any such question in any suit or other legal proceeding.
- (9) In making any order with respect to the disposal of the property of any private company referred to in clause (b) of sub-section (5), the court shall have due regard to the interests of all persons interested in such property other than the delinquent and persons referred to in that clause.
- (10) This section shall apply notwithstanding that the act is one for which the person concerned may be criminally liable.
- (11) In proceedings under this section the court shall have all the powers which a court has under section 237 of the Indian Companies Act, 1913.
- (12) This section shall apply in respect of a co-operative society as defined in Part III as it applies in respect of an insurer.
- (13) On and from the commencement of the Insurance (Amendment) Ordinance, 1955, the court entitled to exercise jurisdiction under this section shall be the High Court within whose jurisdiction the registered office of the insurer is situate (hereinafter referred to as the High Court) and any proceedings under this section pending at such commencement in any court other than the High Court shall, on such commencement, stand transferred to the High Court.
  - (14) The High Court may make rules providing for—
  - (a) the manner in which enquiries and proceedings may be held under this section;

VII of 1913.

(b) any other matter for which provision has to be made for enabling the High Court to effectively exercise its jurisdiction under this section.".

Amendment of section 107.

- 5. In section 107 of the principal Act, in sub-section (1),—
  - (a) after the words "the Controller", the words and figures "or an Administrator appointed under section 52A" shall be inserted;
- (b) for the words, brackets and figures "any director, manager or other officer of an insurer or any person who is liable under sub-section (2) of section 41", the words, brackets and figures "any director, managing agent, manager, secretary or other officer of an insurer or any liquidator or any employee or agent of an insurer or any person who is liable under sub-section (2) of section 41 or any other person" shall be substituted.

RAJENDRA PRASAD, President.

K. Y. BHANDARKAR, Secy. to the Govt. of India.

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"any director, person who is ds, brackets and er, secretary or ny employee or nder sub-section bstituted.

DRA PRASAD,

President.

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EXTRAORDINARY

PART II - Section 1

PUBLISHED BY AUTHORITY

No. 68]

NEW DELHI, FRIDAY, DECEMBER 30, 1955

### MINISTRY OF LAW

New Delhi, the 30th December, 1955

THE REPRESENTATION OF THE PEOPLE (AMEND-MENT) ORDINANCE, 1955

No. 7 OF 1955

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

An Ordinance further to amend the Representation of the People and to make certain consequential amendments in rnment of Part C States Act, 1951.

WHEREAS a Bill further to amend the Representation of the People Act, 1950, and to make certain consequential amendments in the Government of Part C'States Act, 1951 is pending in the House of the People after having been reported by a Select Committee to which it was referred after its introduction in that House;

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 some of the amendments proposed in the Bill as so reported;

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 Ordinarce may be called the Representation of the Short and People (Amendment) Ordinance, 1955. mencement.

(2) It shall come into force on the 1st day of January, 1956. (581)

NEW DELHI ELZII, 1955

XLIII Act temporarily amended.

2. During the period of operation of this Ordinance the Repre-Act XLIX of sentation of the People Act, 1950 shall have effect subject to-the 1951 to be amendments specified in sections 3 to 14 and the Government of Part C States Act, 1951 shall have effect subject to the amendments specified in section 15.

Amendment of section 2.

- 3. In section 2 of the Representation of the People Act, 1950 XLIII of (hereafter in this Ordinance referred to as the principal Act), in sub-section (1),—
  - (a) in clause (b), for the words and figure "by order made under section 9", the words "by law" shall be substituted; and
  - (b) in clause (f), for the words and figure "by section 6 or by order made thereunder", the words "by law" shall be substituted.

Omission of sections. 5 and 8.

4. Sections 5 and 8 of the principal Act shall be omitted.

5. After Part II of the principal Act, the following Part shall be Insertion of Part inserted, namely:—

#### "Part II-A

ELECTORAL ROLLS FOR PARLIAMENTARY CONSTITUENCIES

Electoral rolls for parlia-mentary constituencies.

13A. The electoral roll for every parliamentary constituency shall consist of the electoral rolls of so much of the assembly constituencies or, as the case may be, council of es constituencies as are comprised within that parliamentary constituency; and it shall not be necessary to prepare separately the electoral roll for any parliamentary constituency.".

Substitution of new headheading of Part III.

6. In Part III of the principal Act, for the heading, the following ing for the heading shall be substituted, namely: -

> "Electoral rolls for assembly and council of states CONSTITUENCIES".

Substitution of new section 14.

Definition.

7. For section 14 of the principal Act, the following section shall tion for sec- be substituted, namely:-

"14. In this Part, unless the context otherwise requires, 'constituency' means an assembly constituency or a council of states constituency.".

8. For section 19 of the principal Act, the following section shall Substitution of new section for sec- be substituted, namely: tion 19.

Conditions of Registration.

"19. Subject to the foregoing provisions of this Part, every person who, on the qualifying date-

(a) is not less than 21 years of age, and

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art, every

(b) is ordinarily resident in a constituency, shall be entitled to be registered in the electoral roll for that constituency.".

9. In section 20 of the principal Act, for sub-section (3), the Amendment following sub-section shall be substituted, namely:—

of section 20.

"(3) A member of the armed forces of the Union shall be deemed to be ordinarily resident on any date in the constituency in which, but for his service in the armed forces, he would have been ordinarily resident on that date.":

10. In part IV of the principal Act, for the heading the following Substitution of new heading shall be substituted, namely:—

of new heading for the

"Electoral rolls for council constituencies".

11. Section 26 of the principal Act shall be omitted.

12. In section 27 of the principal Act,—

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

"(2) For the purpose of elections to the Legislative Council of a State in any local authorities' constituency—

- (a) the electorate shall consist of members of such local authorities exercising jurisdiction in any place or area within the limits of that constituency as are specified in relation to that State in the Fourth Schedule:
- (b) every member of each such local authority within a local authorities' constituency shall be entitled to be registered in the electoral roll for that constituency;
- (c) the electoral registration officer for every local authorities' constituency shall maintain in his office in the prescribed manner and form the electoral roll for that constituency corrected up-to-date;
- (d) in order to enable the electoral registration officer to maintain the electoral roll corrected up-to-date the chief executive officer of every local authority (by whatever designation such officer may be known) shall immediately inform the electoral registration officer about every change in the membership of that local authority; and the electoral registration officer shall, on receipt of the information, strike off from the electoral roll the names of persons who have ceased to be, and

Substitution of new heading for the heading of Part IV.

Omission of section 26.

Amendment of section 27.

include therein the names of persons who have become members of that local authority; and

- (e) the provisions of sections 15, 16, 18, 22, and 25 shall apply in relation to local authorities' constituencies as they apply in relation to assembly constituencies.";
- (b) for sub-section (4), the following sub-section shall be substituted, namely:-
  - "(4) The provisions of sections 15, 16, 18, 22, 23 and 25 shall apply in relation to graduates' constituencies and teachers' constituencies as they apply in relation to assembly constituencies.";
- (c) in sub-section (5), clause (a) shall be omitted, and clauses (b) and (c) shall be re-lettered respectively as clauses (a) and (b);
- (d) for sub-section (6), the following sub-section shall be substituted, namely:—
  - "(6) For the purposes of sub-sections (4) and (5) the qualifying date shall be the 1st day of January of the year in which the electoral roll is prepared; and the roll so prepared shall come into force immediately upon its final publication in accordance with the rules made under this Act.".

Omission of section 27F.

13. Section 27F of the principal Act shall be omitted.

Amendment of the dule.

14. In the Fourth Schedule to the principal Act, under the subfourth Sche- heading "Madras", in item 4, for the words "Major Panchayats", the words and figure "Class I Panchayats" shall be substituted.

Conséquential amendments in Act XLIX of 1951.

15. In the Government of Part C States Act, 1951,—

- (a) in section 2, in sub-section (1), in clause (b), for the words, brackets and figures "by order made under sub-section
- (2) of section 4", the words "by law" shall be substituted;
  - (b) in section 4, sub-section (1) shall be omitted; and
  - (c) section 6 shall be omitted.

RAJENDRA PRASAD,

President.

K. Y. BHANDARKAR, Secy. to the Govt. of India.

PRINTED IN INDIA BY THE MANAGER, GOVT. OF INDIA PRESS, NEW DELHI PUBLICATIONS, DELHI, 1956 AND PUBLISHED RY THE MANAGER OF

(Repealed by Art 9 of 1956 THE LIFE INSURANCE (EMERGENCY PROVISIONS) ORDINANCE, 1956 (Published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 19th January, 1956) No. 1 OF 1956 Promulgated by the President in the Sixth Year of the Republic of India. An Ordinance to provide for the taking over, in the public interest, of the management of life insurance business pending nationalisation of such business. W HEREAS it is expedient in the public interest that life insurance business should be nationalised; And whereas it is expedient that pending such nationalisation adequate steps should be taken to protect the interests of policy holders; AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary 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:-

gency Provisions) Ordinance, 1956.

ance comes into force;

(2) It shall come into force at once.

1. (1) This Ordinance may be called the Life Insurance (Emer-Short

(1) "appointed day" means the date on which this Ordin-

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

- (?) "controlled business" means—
- (i) in the case of any insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 of the Insurance Act and carrying on life insurance business—
  - (a) all his business, if he carries on no other class of insurance business:
  - (b) all the business appertaining to his life insurance business, if he carries on any other class of insurance business also;
  - (c) all his business, if his certificate of registration under the Insurance Act in respect of general insurance business stands wholly cancelled for a period of more than six months on the appointed day;
- (ii) in the case of any other insurer specified in clause (9) of section 2 of the Insurance Act and carrying on life insurance business—
  - (a) all his business in India, if he carries on no other class of insurance business in India;
  - (b) all the business appertaining to his life insurance business in India, if he carries on any other class of insurance business also in India;
  - (c) all his business in India, if his certificate of registration under the Insurance Act in respect of general insurance business in India stands wholly cancelled for a period of more than six months on the appointed day;
- (iii) in the case of a provident society, as defined in section 65 of the Insurance Act, all its business;

Explanation.—An insurer is said to carry on no class of insurance business other than life insurance business if, in addition to life insurance business he carries on only capital redemption business or annuity certain business or both; and the expression "business appertaining to his life insurance business" shall be construed accordingly;

- (3) "Custodian" means the person appointed under section 4 to take over the management of any controlled business;
  - (4) "Insurance Act" means the Insurance Act, 1938;
- (5) "insurer" means an insurer as defined in the Insurance Act who carries on life insurance business in India, and includes

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in the Insurance idia, and includes a provident society as defined in section 65 of the Insurance Act;

- (6) "notified order" means an Order notified in the Official Gazette:
- (7) all other words and expressions used herein but not defined, and defined in the Insurance Act, shall have the meanings respectively assigned to them in that Act.
- 3. (1) On and from the appointed day, the management of the Management controlled business of all insurers shall vest in the Central Gov- of controlled business to ernment, and, pending the appointment of a Custodian for the con-vest in Govtrolled business of any insurer, the persons in charge of the manage-commences ment of such business immediately before the appointed day shall, ment of on and from the appointed day, be in charge of the management of Ordinance. the business for and on behalf of the Central Government; and the controlled business of the insurer shall be carried on by them subject to the provisions contained in sub-sections (3) and (5) and to such further directions, if any, as the Central Government may give to them by notice addressed and sent to the principal officer of the insurer.
- (2) Any contract, whether express or implied, providing for the management of the controlled business of an insurer made before the appointed day between the insurer and any person in charge of the management of such business immediately before the appointed day shall be deemed to have terminated on the appointed
- (3) No insurer shall, without the previous approval of the person specified by the Central Government in this behalf in respect of that insurer (hereinafter referred to as the authorised person),—
  - (a) make any payment or grant any loan in respect of a policy of life insurance otherwise than in accordance with the normal practice observed by him in respect of such matters immediately before the appointed day;
  - (b) incur any expenditure from the assets appertaining to the controlled business otherwise than for the purpose of making routine payments of salaries or commissions to employees, insurance agents, special agents or chief agents or for the purpose of meeting the routine day to day expenditure;
  - (e) transfer or otherwise dispose of any such assets or create any charge, hypothecation, lien or other encumbrance thereon:
  - (d) invest in any manner any moneys forming part of such - assets:

- (e) acquire any immovable property out of any moneys forming part of such assets;
- (f) enter into any contract of service or agency, whether expressly or by implication, for purposes connected wholly or partly with the controlled business or vary the terms and conditions of any such contract subsisting on the appointed day;
- (g) enter into any other transaction relating to controlled business other than a contract relating to the issue of a new policy of life insurance or vary the terms and conditions of any agreement relating to any such transaction subsisting at the commencement of this Ordinance.
- (4) The approval of the authorised person may be given either generally in relation to certain classes of transactions of the insurer or specially in relation to any of his transactions.
- (5) Every insurer shall deposit all securities and documents of title to any assets appertaining to the controlled business in any Scheduled Bank in which the insurer had an account immediately before the appointed day or in any branch of the State Bank in the place where the head office or the principal office of the insurer is situated or, where there is no branch of the State Bank in such place, the nearest branch of the State Bank; and no such security or document shall be withdrawn from the Scheduled Bank or the State Bank, as the case may be, except with the permission of the authorised person:

Provided that nothing contained in this sub-section shall apply to any security or document of title kept with approved trustees by reason of the provisions contained in sub-section (6) of section 27 of the Insurance Act, or kept in trust with an Official Trustee in pursuance of the articles of association of an insurer unless the Central Government, by notified order, otherwise directs.

Explanation.—In this sub-section,—

- (a) Scheduled Bank means a bank included for the time being in the Second Schedule to the Reserve Bank of India Act, 1934;
- (b) State Bank means the State Bank of India constituted under the State Bank of India Act, 1955.
- (6) Every insurer shall deliver forthwith at the place and to the person specified in this behalf by the Central Government in respect of that insurer the following documents, namely:—
  - (i) the minutes book or any other book in India containing all resolutions up to the appointed day of the persons in charge

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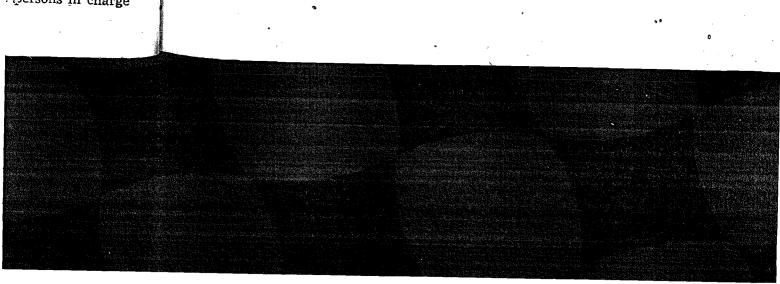
of the management of the controlled business before the appointed day;

- (ii) the current cheque books relating to the controlled business which are at the head office or the principal office of the insurer;
- (iii) all registers or other books containing particulars relating to the investment of any moneys appertaining to the controlled business including investments on mortgaged properties and all loans granted and advances made otherwise than on policies
- (iv) all brokers' notes or certificates in the possession of the insurer in respect of any orders for the investment of any moneys appertaining to the controlled business:

Provided that if any document specified in this sub-section is relevant for the purpose of any business other than the controlled business carried on by the insurer, the person specified in the notified order shall be bound to return it to the persons in charge of the management of such other business with the least possible delay, but shall have power to place identification marks on such document or to take extracts or copies therefrom.

- (7) Without prejudice to the generality of the powers conferred by sub-section (1) and to the provisions contained in sub-sections (3), (5) and (6), any directions issued under sub-section (1) may require the persons in charge of the management of the controlled business of an insurer under this Ordinance to furnish to the Central Government or to the authorised person such returns, statements and other information relating to the controlled business as may be mentioned in the direction.
- . (8) The persons in charge of the management of the controlled business of an insurer under this Ordinance shall be entitled to such remuneration, whether by way of allowance or salary as the Central Government may fix; and any such person may, by giving a month's notice in writing to the Central Government of his intention so to do, relinquish charge of the management of the controlled business.
- 4. (1) The Central Government may, as soon as it is convenient Power of administratively so to do, appoint any person as Custodian for the ernment to purpose of taking over the management of the controlled business appoint Custodians of an insurer.

to take over management of controlled business.



- (2) On the appointment of a Custodian under sub-section (1), all persons in charge of the management of the controlled business of the insurer for and on behalf of the Central Government immediately before such appointment shall cease to be in charge of such management and shall be bound to deliver to the Custodian all books of account, registers or other documents in their custody relating to the controlled business of the insurer.
- (3) Nothing contained in sub-sections (3), (5) and (6) of section 3 shall apply to any insurer the management of whose controlled business has been taken over by the Custodian, but the Central Government may issue such directions to the Custodian as to his powers and duties as it deems desirable in the circumstances of the case, and the Custodian may apply to the Central Government at any time for instructions as to the manner in which he shall conduct the management of the controlled business of the insurer or in relation to any matter arising in the course of such management.
- (4) The Custodian shall receive such remuneration as the Central Government may fix; and the Central Government may at any time cancel the appointment of any person as Custodian and appoint some other person in his stead.

Powers of institute proceedings, etc.

5. The Custodian may, in relation to the controlled business of Custodian to any insurer the management of which has been taken over by him, exercise all or any of the powers which the Controller of Insurance or an Administrator appointed under section 52A of the Insurance Act may exercise under section 106 or section 107 of that Act.

Compensation for management of controlled business vesting in Central Government.

6. The amount of compensation payable in respect of the vesting in the Central Government of the management of the controlled business of an insurer shall, for every month during which the management thereof remains vested in the Central Government, be a sum which is equivalent to one-twelfth of the annual average of the share of the surplus allocated to shareholders as disclosed in the abstracts prepared in accordance with Part II of the Fourth Schedule to the Insurance Act in respect of the last two actuarial investigations relating to the controlled business as at dates earlier than the first day of January, 1956:

Provided that, if in respect of the controlled business of an insurer no such surplus as is referred to in this sub-section has been allocated to shareholders either because there are no shareholders or for any other reason, the compensation shall be payable at the rate of one rupee per month for every two thousand rupees or part thereof of the premium income of the insurer relating to his controlled business during the year 1954.

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7. (1) The amount of compensation payable under section 6 shall Compensain the first instance be payable out of the seven and a half per cent. be paid and of the surplus referred to in sub-section (1) of section 49 of the distributed. Insurance Act earned by the insurer during the period the management of the controlled business of the insurer vests in the Central Government, and where such compensation or any part thereof cannot be so paid out the Central Government shall make due provision for the payment of such compensation or part thereof as the case may be.

(2) The compensation payable under section 6 shall distributed among the persons entitled thereto by the Central Government in such manner as may be prescribed by rules made in this behalf:

Provided that in the case of an insurer who is a company the Central Government shall have due regard to the wishes of the members expressed by them at any general meeting convened for the purpose.

### 8. If any person-

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- (a) fails to deliver to the Custodian any books of account, registers or any other documents in his custody relating to the controlled business of an insurer in respect of the management of which the Custodian has been appointed; or
- (b) retains any property of such insurer appertaining to the controlled business of the insurer; or
- (c) fails to comply with the provisions contained in subsection (3) or sub-section (5) or sub-section (6) of section 3; or
- (d) fails to comply with any directions issued under subsection (1) or sub-section (7) of section 3;

he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

9. No proceeding for the winding up of an insurer the manage-Insurer not ment of whose controlled business has vested in the Central Gov- to be wound ernment under this Ordinance or for the appointment of a Receiver in respect of such business shall lie in any court.

10. In computing the period of limitation prescribed by any law Exclusion of for the time being in force for any suit or application against any Ordinance person by an insurer in respect of any matter arising out of his for computcontrolled business, the time during which this Ordinance is in of lumitation force shall be excluded.

11. The provisions of this Ordinance shall have effect notwith-Effect of standing anything inconsistent therewith in any other law or in any Ordinance on other instrument having effect by virtue of any other law.

Penalties

Delegation of powers.

12. The Central Government may, by notified order, direct that all or any of the powers exercisable by it under this Ordinance may also be exercised by any such person as may be specified in the order.

Protection of action taken under Ordinance,

- 13. (1) No suit, prosecution or other legal proceeding shall lie against any Custodian or authorised person in respect of anything which is in good faith done or intended to be done under this Ordinance:
- (2) No suit or other legal proceeding shall lie against the Central Government or any Custodian or authorised person for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Ordinance.

Exemptions,

- 14. Nothing contained in this Ordinance shall apply to-
  - (a) any insurer in respect of the management of whose affairs an Administrator has been appointed under section 52A of the Insurance Act;
  - (b) any insurer whose business is being voluntarily wound up or is being wound up under the orders of a court;
- (c) any insurer to whom the Insurance Act does not apply by reason of the provisions contained in section 2E thereof;
- (d) any approved superannuation fund as defined in clause (a) of section 58N of the Indian Income-tax Act, 1922; 11 of 1922.
  - (e) any insurance business carried on by the Government.

Power to make rules.

- 15. (1) The Central Government may, by notified order, make rules to carry out the purposes of this Ordinance.
- (2) In particular, and without prejudice to the generality of the foregoing power, rules made under sub-section (1) may provide for—
  - (a) the form and manner in which books of accounts appertaining to controlled business shall be maintained by insurers;
  - (b) the manner in which any compensation payable under this Ordinance may be paid to the persons entitled thereto;
  - (c) the circumstances in which the remuneration payable to persons in charge of the management of the controlled business of an insurer under this Ordinance or to Custodians shall be met by the Central Government, whether wholly or in part.

RAJENDRA PRASAD,

President

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PRASAD,

President.

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## THE MADRAS TERMINAL TAX ON RAILWAY PASSENGERS ORDINANCE, 1956

(Published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 25th January, 1956)



No. 2 of 1956

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

An Ordinance to provide for the levy for a temporary period of a terminal tax on passengers carried by railway from and to certain railway stations in the State of Madras.

W HEREAS 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 Madras Terminal Tax on Railway Passengers Ordinance, 1956.

Short title, extent commencement.

- (2) It extends to the whole of India.
- (3) It shall come into force at once.
- 2. (1) There shall be levied on all passengers carried by railway from any of the following railway stations in the State of Madras, Terminal tax namely, Kumbakonam, Tiruvadamarudur, Tirunageswaram, Darasu- carried ram and Swamimalai to any other railway station in India a terminal railway leaving certain tax in respect of every ticket (whether single or return) at the rates railway specified in the Schedule.

stations Madras.

(2) A terminal tax in respect of every return ticket shall also be levied at the same rates on every passenger carried by railway to any of the aforesaid railway stations from any other railway station in India.

(Price annas 2 or 3 d.)

Explanation.—The terminal tax on a half ticket shall be one-half of the terminal tax leviable in respect of a ticket.

(3) The terminal tax specified in sub-sections (1) and (2) shall be leviable for the period commencing on the 1st day of February, 1956, and ending with the 15th day of March, 1956.

Mode of recovery of tax.

3. The terminal tax leviable under this Ordinance may be collected by the railway administration, and, where it is so collected, the railway administration shall have all the powers and remedies for the recovery thereof as though the same were a rate or fare which the railway administration is empowered to levy under the Indian Railways Act, 1890.

9 of 1890

Exemptions.

- 4. Nothing contained in this Ordinance shall apply to—
  - (a) children not over three years of age;
  - (b) persons travelling on military warrants; and
- (c) persons travelling between any such railway stations situate within a distance of thirty miles from Kumbakonam as the Central Government may, by notification in the Official Gazette, specify in this behalf.

## THE SCHEDULE (See section 2)

Class of accommodation			-	Rates of terminal tax in respect of every ticket (whether single or return)			
			2				
				Rs.	A.	``	Р,
Air-conditioned or	r First (	Class		0	8,		σ
Second Class		• • •	• • • •	0	4		0
Third Class	***		•••	0	2		0

RAJENDRA PRASAD, President.

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## THE SALES TAX LAWS VALIDATION ORDINANCE, 1956

(Published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 30th January, 1956)



## No. 3 of 1956

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

An Ordinance to validate laws of States imposing, or authorising the imposition of, taxes on the sale or purchase of goods in the course of inter-State trade or commerce.

W HEREAS 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 Sales Tax Laws Valida- Short title tion Ordinance, 1956.

and commencement.

(2) It shall come into force at once.

2. Notwithstanding any judgment, decree or order of any court, Validation of no law of a State, in so far as it imposes, or authorises the imposi- imposing, or tion of, a tax on the sale or purchase of any goods where such sale authorising or purchase took place in the course of inter-State trade or com- the imposimerce during the period between the 1st day of April, 1951, and the on sale or 6th day of September, 1955, shall be deemed to be invalid or ever goods in the to have been invalid merely by reason of the fact that such sale or course of inter-State purchase took place in the course of inter-State trade or commerce; trade or and all such taxes levied or collected or purporting to have been commerce. levied or collected during the aforesaid period shall, notwithstanding any defect in, or invalidity of, the enactment under which the tax was levied or collected, be deemed always to have been validly levied or collected as if this Ordinance were in force on the date on which such tax was levied or collected.

(Price annas 2 or 3d)

Explanation.—In this section, "law of a State" includes any law made by the Legislative Assembly of a State specified in Part C of the First Schedule to the Constitution and any notification issued in exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950.

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RAJENDRA PRASAD,

President.

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SAD, President. "Repealed by Act 20 of 1956

## THE TRAVANCORE-COCHIN APPROPRIATION (VOTE ON ACCOUNT) ORDINANCE, 1956

(Published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 31st March, 1956)



No. 4 of 1956

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

An Ordinance to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Travancore-Cochin for the service of a part of the financial year 1956-57.

HEREAS by a Proclamation issued on the 23rd day of March, 1956, by the President under article 356 of the Constitution, the powers of the Legislature of the State of Travancore-Cochin have been declared to be exercisable by or under the authority of Parliament;

AND WHEREAS a Bill to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Travancore-Cochin for the service of a part of the financial year 1956-57 has been passed by the House of the People;

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

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:—

1. This Ordinance may be called the Travancore-Cochin Appro-Short title. priation (Vote on Account) Ordinance, 1956.

Price as. 2 or 3d.

X

Withdrawal of Rs. 10,00,89,000 from and out of the Travancore-Cochin for the finan-cial year 1956-57.

2. From and out of the Consolidated Fund of the State of Travancore-Cochin there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to out of the Consolidated the sum of ten crores and eighty-nine thousand rupees towards Fund of the defraying the several charges which will come in course of payment State of during the financial year 1956-57.

Appropria-

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

## THE SCHEDULE (See sections 2 and 3)

ĭ	2		3	,	
		Sums not exceeding			
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Conso- lidated Fund	Total	
т	Agricultural Income Toy	Rs.	Rs.	Rs.	
I	Agricultural Income-Tax and Sales Tax	2,35,000	••	2,35,000	
II	Land Revenue	10,87,000	23,000	11,10,000	
111	Excise	4,36,000	:	4,36,000	
IV	Stamps	70,000	••	70,000	
v	Forest	23,52,000		23,52,000	
VI	Registration	3,68,000		3,68,000	
·VII	Motor Vehicles Acts	1,76,000		1,76,000	
VIII	Irrigation	4,60,000		4,60,000	
•	Debt Charges		24,10,000	24,10,000	
IX	Heads of States, Ministers, Secretariat and attached Offices.	8,25,000	1,42,000	9,67,000	
X	State Legislature	67,000	6,000	73,000	
XI	Elections	1,20,000	·	1,20,000	
ľΧΊΙ	District Administration and Miscellaneous	7,44,000		7,44,000	
XIII	Administration of Justice	12,32,000	1,41,000	13,73,000	
XIV	Jails	2,34,000		2,34,000	

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No. of Vote	Services and purposes	Voted by Parliament	Charged on the Conso- lidated Fund	Total	
		Rs.	Rs.	Rs.	
XV	Police	28,16,000	••	28,16,000	
XVI	Scientific Departments	92,000	••	92,000	
XVII	Education	1,77,32,000	25,000	1,77,57,000	
XVIII	Medical	43,53,000	••	43,53,000	
XIX	Public Health	13,19,000	••	13,19,000	
XX	Agriculture	14,28,000	••	14,28,000	
XXI	Rural Development	14,63,000	••	14,63,000	
XXII	Veterinary	3,08,000	• •	3,08,000	
XXIII	Co-operation	2,85,000	• •	2,85,000	
XXIV	Industries	46,73,000	* *	46,73,000	
XXV	Labour and Miscellaneous .	10,06,000	• •	10,06,000	
XXVI	Civil Works	69,90,000	• •	69,90,000	
XXVII	Electricity	20,24,000	• •	20,24,000	
XXVIII	Pensions	21,75,000	5,000	21,80,000	
XXIX	Stationery and Printing	7,37,000	• •	7,37,000	
XXX	Miscellaneous	6,88,000	12,75,000	19,63,000	
XXXI	Community Development Projects	29,53,000	••	29,53,000	
XXXII	Transport Schemes	42,59,000	••	42,59,000	
XXXIII	Capital Outlay on Irrigation (Commercial)	12,95,000	• •	12,95,000	
XXXIV	Capital Outlay on Irrigation (Non- Commercial)	25,98,000	••	25,98,000	
XXXV	Capital Outlay on Agricultural Improvement	21,000	••	21,000	
XXXVI	Capital Outlay on Industrial Development	24,99,000	••	24,99,000	
XXXVII	Capital Outlay on Civil Works .	73,30,000	• •	73,30,000	
XXXVIII	Capital Outlay on Electricity Schemes	83,24,000	••	83,24,000	
XXXIX	Capital Account of Other Works outside the Revenue Account .	13,19,000	• • • •	13,19,000	

## 4 Travancore-Cochin Appropriation (Vote on Account)

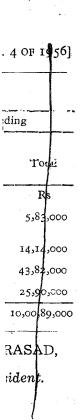
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No. of Vote	Services and purposes	Vo ted by Parliament	Charged on the Conso- lidated Fund	Totel	
XL	Capital Outlay on Transport Schemes	Rs.	Rs.	Rs	
		5,83,000	• •	5,83,000	
XLI	Capital Outlay on State Schemes of Government Trading	74.74.000		¥4 ¥4 000	
		14,14,000		14,14,000	
XLII	Loans and Advances	43,82,000	••	43,82,000	
	Public Debt—Repayment .	••	25,90,000	25,90,000	
ę	Total .	9,34,72,000	66,17,000	10,00,89,000	

RAJENDRA PRASAD,

President.

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"Repealed by Act 17 8. 1956, 5.46 (70 m 22-10-1966).

## THE STATE BANK OF HYDERABAD ORDINANCE, 1956

(Published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 26th September, 1956)



No. 5 of 1956

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

An Ordinance to transfer the share capital of the Hyderabad State Bank to the Reserve Bank of India and to provide for its proper management and matters connected therewith or incidental thereto.

WHEREAS in view of the impending reorganisation of States, it is necessary to provide for the devolution of the functions of the State Government of Hyderabad in relation to the Hyderabad State Bank on a single authority;

And whereas in order to secure the more efficient performance of banking and treasury functions by the Hyderabad State Bank as agent to the Reserve Bank of India and to enable the Reserve Bank of India to assist the Hyderabad State Bank, by the grant of subsidies or otherwise, to extend banking facilities to the public on a larger scale, it is expedient and necessary to provide for the transfer of the share capital of the Hyderabad State Bank to the Reserve Bank of India and for its proper management and for matters connected therewith or incidental thereto;

And whereas a Bill to transfer the share capital of the Hyderabad State Bank to the Reserve Bank of India and to provide for its proper management and matters connected therewith or incidental thereto has been introduced in Parliament but has not yet 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;

Price annas 6 or 2d.

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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 and commencement.

- 1. (1) This Ordinance may be called the State Bank of Hyderabad Ordinance, 1956.
  - (2) It shall come into force at once.

Definitions.

- 2. In this Ordinance, unless the context otherwise requires,-
- (a) "appointed day" means the twenty-second day of October, 1956;
- (b) "Hyderabad Bank" means the Hyderabad State Bank re-named under sub-section (1) of section 3, as the State Bank of Hyderabad;
- (c) "Hyderabad State Bank" means the Hyderabad State Bank constituted and incorporated under the Hyderabad State Bank Act, 1350F;

XIX of 1350F.

- (d) "prescribed" means prescribed by regulations made under this Ordinance;
- (e) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934.

2 of 1934.

#### CHAPTER II

## Re-naming of the Hyderabad State Bank and transfer of its share capital to the Reserve Bank

Change of name of Hyderabad State Bank.

- 3. (1) On the appointed day, the body corporate constituted by the Hyderabad State Bank Act, 1350F, and known as the Hyderabad State Bank shall he re-named as the State Bank of Hyderabad, and shall, as from that day, carry on the business of banking and other business in accordance with the provisions of this Ordinance and shall have power to acquire and hold property, whether movable or immovable, for the purposes of this Ordinance and to dispose of the same.
- (2) The said body corporate shall consist of the persons who for the time being hold the office of Governor or Deputy Governor of the Reserve Bank and such other persons, if any, as the Central Government may, from time to time, appoint in this behalf.

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(3) The change of name of the Hyderabad State Bank by subsection (1) shall not affect any rights or obligations of that bank, or render defective any legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the Hyderabad Bank by its former name may be continued by or against it by its new name.

4. (1) Unless otherwise directed by the Central Government by Head Office notification in the Official Gazette, the Head Office of the Hyderabad and branches of Hydera-Bank shall be at Hyderabad.

bad Bank.

- (2) The Hyderabad Bank shall continue to maintain every branch and agency of the Hyderabad State Bank in existence immediately before the appointed day, and shall not discontinue any such branch or agency or establish any new branch or agency except with the previous approval of the Reserve Bank.
- 5. On the appointed day, all shares in the capital of the Hydera-Transfer of bad State Bank shall be transferred to, and shall vest in, the share tal of Reserve Bank free of all trusts, liabilities and encumbrances.

Hyderabad State Bank to Reserve Bank.

6. (1) The Reserve Bank shall pay to the State Government of Compensa-Hyderabad and every other person who, immediately before the tion to sharsappointed day, is registered as a holder of shares in the Hyderabad Hyderabad State Bank, as compensation for the transfer of such shares to the State Bank. Reserve Bank under section 5, an amount calculated at the rate of ninety-four rupees four annas and six pies in Indian currency for each share of the face value of one hundred Osmania Sicca rupees.

- (2) Notwithstanding the transfer of the shares in the capital of the Hyderabad State Bank to the Reserve Bank, any shareholder who, immediately before the appointed day, is entitled to payment of dividend on the shares of the Hyderabad State Bank held by him shall be entitled to receive from the Hyderabad Bank all dividends declared by the Hyderabad State Bank in respect of his shares for any year which ended before the appointed day and remaining unpaid.
- (3) Notwithstanding anything contained in the Hyderabad State XIX of 1350 Bank Act, 1350F and any regulations made thereunder, no such shareholder shall be entitled as of right to any dividend on the shares of the Hyderabad State Bank held by him, in respect of any period before the appointed day for which that Bank had not declared a dividend:

Provided that the Central Government may, in respect of any such period, authorise the payment of dividend at such rate as it may specify if it is satisfied that there is sufficient balance of profits available after such provisions and contributions for the purposes referred to in section 28, as the Reserve Bank considers necessary, have been made.

(4) Nothing contained in sub-section (1) shall affect the rights inter se between the holder of any share in the Hyderabad State Bank and any other person who may have an interest in such share, and such other person shall be entitled to enforce his interest against the compensation awarded to the holder of such share but not against the Reserve Bank.

Certain officers of the Hydera-bad State Bank to vacate office.

- 7. (1) Every person holding office as director (including the President and the managing director) or as deputy managing director, in the Hyderabad State Bank immediately before the appointed day, shall be deemed to have vacated that office on the appointed day, and notwithstanding anything contained in this Ordinance or in any other law for the time being in force or in any agreement or contract, such person shall not be entitled to any compensation for the loss of office or for the premature termination of any agreement or contract relating to his employment, except such pension, compensation or other benefit, as the Hyderabad Bank may, with the previous approval of the Reserve Bank, grant to him having regard to what he would have received, if this Ordinance had not been promulgated and if his employment had ceased on the appointed day in the ordinary course.
- (2) Nothing in sub-section (1) shall be deemed to prevent the Hyderabad Bank from re-appointing or re-employing with the previous permission in writing of the Reserve Bank, the managing director or the deputy managing director of the Hyderabad State Bank on such terms and conditions as are agreed upon between him and the Hyderabad Bank and are approved by the Reserve Bank.

Special provisions regarding existing officers and employees.

8 (1) Notwithstanding anything contained in any law or contract of service or other document, no appointment made or promotion, increment in salary, pension or allowance or any other benefit granted to any person by the Hyderabad State Bank after the 19th day of December, 1954, and before the appointed day which would not ordinarily have been made or granted or which would not ordinarily have been admissible under the rules or authorisations of the Hyderabad State Bank, or of any provident, pension, or other fund in force before the 19th day of December, 1954, shall have effect or be payable or claimable from the Hyderabad Bank, or from any provident, pension or other fund or from any authority administering any such fund, unless the Reserve Bank has, by

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general or special order, confirmed the appointment, promotion or increment or has directed the grant of the pension, allowance or other benefit, as the case may be.

- (2) Where any officer or other employee of the Hyderabad State Bank has, whether before or after the appointed day, received any amount by reason of any such appointment, promotion or increment. or the grant of any such pension, allowance or other benefit, as is referred to in sub-section (1), which has not been confirmed or sanctioned by the Reserve Bank in pursuance of the powers conferred on it by that sub-section, such officer or other employee shall be bound to refund such amount to the Hyderabad Bank and that bank shall be entitled to take all such steps as may be necessary for recovering such amount.
- (3) Where any managing director, deputy managing director or other employee of the Hyderabad State Bank has, after the 19th day of December, 1954, and before the appointed day, been paid any sum by way of compensation or gratuity, the Hyderabad Bank shall be entitled to claim refund of any sum so paid if the payment is not confirmed by the Reserve Bank by general or special order.
- (4) Notwithstanding anything contained in any law for the time being in force, the re-naming of the Hyderabad State Bank or the transfer of its share capital to the Reserve Bank shall not entitle any officer or other employee of that bank to any compensation to which he may be entitled under any such law, and no such claim shall be entertained by any court, tribunal or other authority.

#### CHAPTER III

### CAPITAL OF THE HYDERABAD BANK

9. The authorised capital of the Hyderabad Bank shall be one Authorised crore of rupees:

capital.

Provided that the Reserve Bank may, with the previous sanction of the Central Government, authorise an increase or reduction in the authorised capital.

- 10. (1) Out of the amount in the capital account of the Hyderabad Issued State Bank on the appointed day,
  - (a) a sum of fifty lakhs of rupees shall be retained as the issued capital of the Hyderabad Bank and such capital shall on that day stand allotted to the Reserve Bank in lieu of the compensation payable by it under section 6;

- (b) any amount in excess of the sum of fifty lakhs of rupees aforesaid shall on that day stand transferred to the Reserve Fund Account of the Hyderabad Bank.
- (2) The Reserve Bank may, with the previous sanction of the Central Government, authorise an increase in the issued capital of the Hyderabad Bank, and such increased capital shall be provided by the Reserve Bank.

#### CHAPTER IV

#### MANAGEMENT OF THE HYDERABAD BANK

Management.

- 11. (1) The Reserve Bank may, from time to time, give directions and instructions to the Hyderabad Bank in regard to any of its affairs and business, and that bank shall be bound to comply with the directions and instructions so given.
- (2) Subject to any such directions and instructions, the general superintendence and conduct of the affairs and business of the Hyderabad Bank shall, as from the appointed day, vest in a Board of Directors who may exercise all powers and do all such acts and things as may be exercised or done by that bank.
- (3) The Board of Directors in discharging its functions under this Ordinance, shall act on business principles, regard being had to public interest.

Composition of Board of Directors.

- 12. (1) The Board of Directors of the Hyderabad Bank shall consist of the following:—
  - (a) a managing director to be appointed by the Reserve Bank with the approval of the Central Government;
  - (b) an officer of the Central Government to be nominated by that Government;
  - (c) an officer of the Reserve Bank to be nominated by that bank;
  - (d) such number of other directors not exceeding three, to be nominated by the Reserve Bank with the approval of the Central Government.
- (2) If a director nominated under clause (b) or clause (c) of subsection (1) is, for any reason, unable to attend any meeting of the Board of Directors or any of its committees, the Central Government or the Reserve Bank, as the case may be, may depute any other person to attend the said meeting, and such other person shall have the right to speak in and otherwise take part in the proceedings of the meeting and shall also be entitled to vote at such meeting.

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- 13. (1) The managing director shall hold office for such term not Term exceeding four years as the Reserve Bank may specify at the time directors. of his appointment.
- (2) A director nominated under clause (b) or clause (c) of subsection (1) of section 12 shall hold office at the pleasure of the authority nominating him.
- (3) A director nominated under clause (d) of sub-section (1) of section 12 shall hold office for three years:

Provided that he shall continue to hold office until his successor is duly nominated.

- (4) A director relinquishing his office shall be eligible for re-appointment or re-nomination, as the case may be.
- 14. (1) A person shall be disqualified to be a director of the Disqualifica-
  - (a) he holds the office of director, provisional director, promoter, agent, or manager of any banking company or a banking company for the formation of which a prospectus has been issued; or
  - (b) he has been removed or dismissed from the service of Government: or
  - (c) he holds any office of profit under the Hyderabad Bank, other than the office of a managing director; or
  - (d) he is, or at any time has been adjudicated an insolvent or has suspended payment of his debts or has compounded with his creditors; or
  - (e) he is declared as a lunatic or becomes of unsound mind;
  - '(f) he is or has been convicted of any offence involving moral turpitude.
  - (2) No two persons who are partners of the same firm or are directors of the same private company or one of whom is an agent of the other or holds a power of attorney from a firm of which the other is a partner may be directors at the same time.
  - (3) The appointment or nomination as a director of any person who is a member of either House of Parliament or the Legislature of a State shall be void unless within two months of the date of appointment or nomination, as the case may be, he ceases to be a member of Parliament or the Legislature of the State, and if any director is elected or nominated as a member of Parliament or the Legislature of a State, he shall cease to be a director as from the date of such election or nomination, as the case may be.

directorship.

- (4) In this section,—
- (a) 'banking company' has the same meaning as in the Banking Companies Act, 1949;
- (b) 'manager' means the chief executive officer of a banking company by whatever name called;
- (c) 'private company' has the same meaning as in the Companies Act, 1956.

Vacation of office of directors.

#### 15. If a director-

- (a) becomes subject to any of the disqualifications mentioned in section 14, or
- (b) resigns his office by giving notice in writing under his hand to the Reserve Bank, and his resignation is accepted by that bank, or
- (c) is absent without leave of the Board of Directors for more than three consecutive meetings thereof,

his seat shall thereupon become vacant.

Chairman of the Board of Directors.

- 16. (1) The chairman of the Board of Directors shall be such one of the directors, not being the managing director, as the Reserve Bank may, with the approval of the Central Government, nominate.
- (2) The chairman shall hold office for two years or until his successor is nominated:

Provided that the chairman shall, so long as he is a director, be eligible for re-nomination as chairman.

Managing director.

- 17. The managing director-
  - (a) shall be a whole-time officer of the Hyderabad Bank;
- (b) subject to the general control of the Board of Directors, shall exercise such powers and perform such duties as may be prescribed; and
- (c) shall receive such salary and allowances as may be determined by the Reserve Bank.

Remuneration of directors. 18. A director shall be paid for attending the meetings of the Board of Directors or of any of its committees and for attending to any other business of the Hyderabad Bank such fees and allowances as may be prescribed:

Provided that no fee shall be payable to the managing director or any other director who is an officer of the Central Government or the Reserve Bank.

Removel 19. The Reserve Bank may, with the previous approval of the from office Central Government, remove from office—

(a) the managing director of the Hyderabad Bank, or

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(b) a director nominated under clause (d) of sub-section (1) of section 12:

Provided that no such managing director or director shall be removed from office unless he has been given an opportunity of showing cause against the proposed removal.

20. If the managing director of the Hyderabad Bank is rendered Appiontment incapable of discharging his duties by reason of infirmity or other- of wise or is absent on leave or otherwise in circumstances not involv- discharging ing the vacation of his office, the Reserve Bank may appoint another the duties person to discharge the duties of the managing director until the ging director date on which the managing director resumes his duties.

person during his

- 21. (1) Where any vacancy occurs before the expiry of the term Casual of office of a director nominated under clause (d) of sub-section (1) vacancies of section 12, the vacancy shall be filled by nomination by the directors. Reserve Bank with the approval of the Central Government.
- (2) A person nominated under sub-section (1) shall hold office for the unexpired portion of the term of his predecessor.
- 22. (1) The Board of Directors shall meet at such times and Meetings of places and shall observe such rules of procedure in regard to the Board of Directors. transaction of business at its meetings as may be prescribed.
- (2) The chairman of the Board of Directors shall preside at all meetings of the Board, but if for any reason, the chairman is unable to be present at a meeting, a director other than the managing director authorised by the chairman in writing in this behalf and in the absence of such authorisation, any such director elected by the directors present from among themselves shall preside at the meeting.
- (3) All questions at a meeting of the Board of Directors shall be decided by a majority of the votes of the directors present, and in case of equality of votes, the chairman or any other director presiding at the meeting shall have a second or casting vote.
- (4) A director who is directly or indirectly concerned or interested in any contract, loan, arrangement or proposal, entered into or proposed to be entered into by or on behalf of the Hyderabad Bank shall, at the earliest possible opportunity, disclose the nature of his interest to the Board of Directors and shall not be present at any meeting of the Board when any such contract, loan, arrangement or proposal is discussed, unless his presence is required by the other directors for the purpose of eliciting information and where any director is so required to be present, he shall not vote on any such contract, loan, arrangement or proposal.

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(5) A copy of the minutes of every meeting of the Board of Directors together with copies of all connected papers shall be forwarded to the Reserve Bank as soon as possible.

Executive committee of Board of Directors.

- 23. (1) There shall be an executive committee of the Board of Directors consisting of the managing director and such other directors as may be prescribed.
- (2) Subject to any regulations made under this Ordinance, the executive committee may deal with any matter within the competence of the Board of Directors.
- (3) The minutes of every meeting of the executive committee shall be laid before the Board of Directors as soon as possible after the meeting.

#### CHAPTER V

Business to be carried on by the Hyderabad Bank

Hyderabad
Bank to Act
as agent
of the
Reserve
Bank.

- 24. (1) The Hyderabad Bank shall, if so required by the Reserve Bank, act as agent of the Reserve Bank at any place in India where it has a branch and where there is no branch of the banking department of the Reserve Bank, for—
  - (a) paying, receiving, collecting and remitting money, bullion and securities on behalf of any Government in India, and
  - (b) undertaking and transacting any other business which the Reserve Bank may, from time to time, entrust to it.
- (2) The terms and conditions on which any such agency business shall be carried on by the Hyderabad Bank on behalf of the Reserve Bank shall be such as may be determined by the Reserve Bank after consultation with the Hyderabad Bank.
- (3) The Hyderabad Bank may transact any business or perform any functions entrusted to it under sub-section (1) either by itself or through an agent approved by the Reserve Bank.
- (4) Until a new arrangement is made under this section, the Hyderabad Bank shall continue to act as agent of the Reserve Bank at the same places where, and for the same purposes for which, and on the same terms and conditions on which, the Hyderabad State Bank was acting as the agent of the Reserve Bank immediately before the appointed day.

Other business which the Hyderabad Bank may transact.

25. (1) Subject to the other provisions contained in this Ordinance, the Hyderbad Bank may carry on and transact the business of banking as defined in clause (b) of sub-section (1) of section 5 of the Banking Companies Act, 1949, and may engage in such one or 10 of 1949 more of the other forms of business, as are specified in sub-section (1) of section 6 of the said Act.

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- (2) The Central Government may, after previous consultation. with the Reserve Bank, by order in writing-
  - (a) authorise the Hyderabad Bank to do such other forms of business as the Central Government may consider necessary or expedient;
  - (b) direct that any form of business as is mentioned in the order, shall be carried on subject to such restrictions, conditions and safeguards as may be specified therein, or
  - (c) prohibit the Hyderabad Bank from carrying on or transacting any form of business which, but for this clause, it is lawful for the Hyderabad Bank to engage in.
- (3) Subject to the provisions of sub-section (2), the Hyderabad Bank shall not engage in any form of business other than that referred to in sub-section (1).
- 26. (1) The Hyderabad Bank may, with the previous approval Acquisition of the Reserve Bank, and shall, if so directed by the Reserve Bank of business of other with the previous approval of the Central Government, enter into Banks. negotiations for acquiring the business, including the assets liabilities of any other banking institution.

- (2) If the terms and conditions relating to the acquisition of any such banking institution are approved by the Board of Directors of the Hyderabad Bank and the directorate or management of the banking institution concerned and are also approved by the Reserve Bank, they shall be submitted to the Central Government, and, if sanctioned by that Government by order in writing, shall, notwithstanding anything to the contrary contained in this Ordinance or the Companies Act, 1956, or the Banking Companies Act, 1949, or in any other law for the time being in force or in the memorandum or articles of association or other document regulating the constitution, of the banking institution, be operative and binding on the Hyderabad Bank and the banking institution as well as their shareholders and creditors, if any.
- (3) On the day fixed in this behalf in the order of sanction made by the Central Government under sub-section (2), such assets and liabilities of the banking institution as are specified therein shall, by virtue of this section stand transferred to, and be vested in, or as the case may be, become the liabilities of, the Hyderabad Bank,

#### CHAPTER VI

#### RESERVE FUND ACCOUNTS AND AUDIT

Reserve Fund.

- 27. (1) The Hyderabad Bank shall establish a Reserve Fund which shall consist of—
  - (a) subject to the provisions of sub-section (2), the amount in credit immediately before the appointed day, in the Reserve Fund Account of the Hyderabad State Bank, together with such amount as is transferred to it under, sub-section (1) of section 10; and
  - (b) such further amounts as may be transferred to it by the Hyderabad Bank out of its annual net profit, before transferring the balance of profits to the Reserve Bank.
- (2) The Hyderabad Bank shall, as soon as may be after the appointed day, consider whether any adjustments in its Reserve Fund Account are necessary by way of transfer towards provision for bad and doubtful debts, depreciation in assets, contingencies reserve and such other purposes and make, with the previous approval of the Reserve Bank, the necessary adjustments.

Disposal of profits.

28. The Hyderabad Bank shall after making provision for bad and doubtful debts, depreciation in assets, contribution to staff and superannuation funds and for all other matters for which provision is necessary by or under this Ordinance or which are usually provided for by banking companies, transfer the balance of its profits to the Reserve Bank.

Closing of annual accounts.

29. (1) The Hyderabad Bank shall cause its books to be closed and balanced on the thirty-first day of December in each year:

Provided that the Hyderabad Bank may, with the previous approval of the Reserve Bank and shall, when so directed by it,—

- (a) not close or balance its accounts on the thirty-first day of December in any year, or
- (b) close and balance its books on any other day of the year or for any period other than a calendar year.
- (2) Where, in pursuance of the proviso to sub-section (1), the Hyderabad Bank closes and balances its accounts on any day other than the thirty-first day of December or for any period more or less than a year, the provisions of this Ordinance relating to the annual closing and audit of annual balance sheet and accounts shall apply to such closing and balancing of accounts mutatis mutandis.

Audit

30. (1) The accounts of the Hyderabad Bank shall be audited by an auditor duly qualified to act as an auditor of companies under sub-section (1) of section 226 of the Companies Act, 1956, who shall 1 of 1966.

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be audited by npanies under 956, who shall 1 of 1966. be appointed by the Reserve Bank, with the approval of the Central Government.

- (2) The auditor shall receive such remuneration as the Reserve Bank may fix.
- (3) No director or an officer of the Hyderabad Bank shall be eligible to be its auditor during his continuance in office as such director or officer.
- (4) The auditor shall be supplied with a copy of the annual balance sheet and profit and loss account, and a list of all books kept by the Hyderabad Bank, and it shall be the duty of the auditor to examine the balance sheet and profit and loss account with the accounts and vouchers relating thereto, and in the performance of his duties, the auditor-
  - (a) shall have, at all reasonable times, access to the books accounts and other documents of the Hyderabad Bank;
  - (b) may, at the expense of the Hyderabad Bank, employ accountants or other persons to assist him in investigating such accounts, and
  - (c) may, in relation to such accounts, examine any director or any officer of the Hyderabad Bank.
- (5) The auditor shall hold office for such term not exceeding one year as the Reserve Bank may fix at the time of his appointment; and if any vacancy arises before the expiry of the term of an auditor, the vacancy may be filled by the Reserve Bank, with the approval of the Central Government.
- (6) The auditor shall on relinquishing office be eligible for reappointment.
- (7) The auditor shall make a report to the Reserve Bank upon the annual balance sheet and accounts, of the Hyderabad Bank, and in every such report he shall state-
  - (a) whether, in his opinion, the balance sheet is a full and fair balance sheet containing all the necessary particulars and is properly drawn up so as to exhibit a true and correct view of the affairs of the Hyderabad Bank, and in case he has called for any explanation or information, whether it has been given and whether it is satisfactory;
  - (b) whether or not the transactions of the Hyderabad Bank which have come to his notice have been within the competence of the bank;
  - (c) whether or not the returns received from the offices and branches of the Hyderabad Bank have been found adequate for the purpose of his audit;

- (d) whether the profit and loss account shows a true balance of profit or loss for the period covered by such account; and
- (e) any other matter which he considers should be brought to the notice of the Reserve Bank.
- (8) The auditor shall forward a copy of the audit report to the Hyderabad Bank and to the Central Government.
- (9) Without prejudice to the foregoing provisions, the Central Government may at any time appoint such auditors as it thinks fit to examine and report on the accounts of the Hyderabad Bank and such auditors shall have all the rights, privileges and authority in relation to the audit of the accounts of the Hyderabad Bank which an auditor appointed by the Reserve Bank has under this section.

Returns to be furnished by the Hyderabad Bank.

- 31. (1) The Hyderabad Bank shall furnish to the Reserve Bank-
- (a) within two months from the date on which its accounts are closed and balanced, its balance sheet, together with the profit and loss account and the auditor's report, and a report by the Board of Directors, on the working of the Hyderabad Bank during the period covered by the accounts; and
- (b) any other information relating to the affairs and business of the Hyderabad Bank which the Reserve Bank may require.
- (2) The balance sheet and the profit and loss account of the Hyderabad Bank shall be signed by the managing director and a majority of the other directors, including the chairman.

#### CHAPTER VII

#### Miscellaneous

Right of Reserve Bank to seek relief in respect of certain transactions.

- Right of 32. (1) Where the Hyderabad State Bank had at any time within Reserve Bank two years before the appointed day,—
  - (a) made any payment to any person without or for insufficient consideration;
  - (b) made any loan or advance without adequate security or other safeguards;
  - (c) sold or disposed of any property of the bank without consideration or for an inadequate consideration;
  - (d) acquired any property or rights for an excessive consideration, in satisfaction of any loan or advance or other debt or otherwise;
  - (e) entered into or varied any agreement so as to require the payment of excessive consideration by the bank;

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- (f) relinquished any claim or any part thereof or entered. into any compromise or released any security or part thereof;
- (g) entered into any other transaction of such an onerous nature as to cause a loss to, or impose a liability on, the bank exceeding any benefit accrued to it;

and the payment, loan or advance, sale or disposal, acquisition, agreement or variation, relinquishment, compromise or release or other transaction was not proper or not reasonably necessary for the purpose of the business of the bank or was made with an unreasonable lack of prudence on the part of the bank, regard being had to the circumstances at the time, the Reserve Bank may apply for relief to the High Court for the State in which the Head Office of the bank for the time being is situated, in respect of such transaction, and all parties to the transaction (including the managing director, deputy managing director or any officer or other employee of the bank associated with the transaction) shall, unless the High Court otherwise directs, be made parties to the application.

- (2) The High Court may make such order against any of the parties to the application as it thinks just, having regard to the extent to which those parties were respectively responsible for the transaction or benefited from it and to the circumstances of the case.
- (3) Where an application is made to the High Court under this section in respect of any transaction and the application is determined in favour of the Reserve Bank, the High Court shall have exclusive jurisdiction to determine any claim outstanding in respect of the transaction.
- (4) No application made by the Reserve Bank under this section shall be entertained after the expiry of one year from the appointed day.
- 33. (1) Subject to the provisions of any regulations made under Staff of the this Ordinance, the Hyderabad Bank may appoint such number of Hyderabad Bank. officers, advisers and employees as it considers necessary or desirable for the efficient performance of its functions and on such terms and conditions as it may deem fit.

(2) For the removal of doubts, it is hereby declared that the officers, advisers and employees of the Hyderabad Bank, in whatever capacity engaged, shall not be deemed to be officers, advisers or employees of the Reserve Bank for any purpose, unless otherwise provided in the contract or agreement of service of any such officer, adviser or employee.

34. The Hyderabad Bank may accept any subsidies offered by Cost development the Reserve Bank to meet—

- (a) the cost of any specific programme of development undertaken by the Hyderabad Bank with the approval of the Reserve Bank; and
- (b) such losses or expenditure as may be approved by the Reserve Bank, with the consent of the Central Government.

Obligation as fidelity

- 35. (1) The Hyderabad Bank shall observe, except as otherwise and secrecy. required by law, the practices and usages customary among bankers, and, in particular, it shall not divulge any information relating to or to the affairs of its constituents except in circumstances in which it is, in accordance with the law or practice and usage customary among bankers, necessary or appropriate for that bank to divulge such information.
  - (2) Every director, auditor, adviser, officer or other employee of the Hyderabad Bank shall, before entering upon his duties, make a declaration of fidelity and secrecy as in the form set out in the First Schedule.

Bar to liquidation of the Hyderabad

- 36. (1) No provision of law relating to the winding up of companies shall apply to the Hyderabad Bank nor shall it be placed in liquidation, save by order of the Central Government and in such manner as the Central Government may direct.
- (2) In any such event, the Reserve Bank shall not be called upon to contribute any amounts to meet the liabilities of the Hyderabad Bank but the surplus assets thereof, if any, shall be transferred to the Reserve Bank.

Indemnity

- 37. (1) Every director of the Hyderabad Bank shall of directors, indemnified by that bank against all losses and expenses incurred by him in or in relation to the discharge of his duties except such as are caused by his own wilful act or default.
  - (2) A director of the Hyderabad Bank shall not be responsible for any loss or expense caused to the bank by the insufficiency or deficiency of the value of or title to, any property or security acquired or taken on behalf of the bank or by the insolvency or wrongful act of any customer or debtor or by anything done in, or in relation to, the execution of the duties of his office or otherwise than for his wilful act or default.

Defects in ment or conto invalidate acts or proceedings.

- 38. (1) No act or proceeding of the Board of Directors of the the appoint- Hyderabad Bank shall be questioned on the ground merely of the stitution not existence of any vacancy or defect in the constitution of the Board.
  - (2) All acts done by any person acting in good faith as a director of the Hyderabad Bank shall, notwithstanding that he was dis-

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ectors of the merely of the of the Board. as a director he was disqualified to be a director or that there was any other defect in his appointment, be deemed to be valid.

39. Any powers, duties or functions conferred, imposed or Exercise of entrusted by this Ordinance, on or to, the Reserve Bank shall be powers and exercised or performed by the Governor of the Reserve Bank or behalf of the a Deputy Governor of the Reserve Bank nominated under sub-Reserve section (3) of section 7 of the Reserve Bank of India Act, 1934 or to Bank. whom powers and functions have been delegated under section 54A of that Act.

40. No suit or other legal proceeding shall lie against the Central protection of Government or the Reserve Bank or any officer of the Central Gov- action taken ernment or the Reserve Bank for any damage caused or likely to Ordinance. be caused by, anything which is in good faith done or intended to be done in pursuance of this Ordinance.

41. (1) The Central Government may, in consultation with the power of Reserve Bank, by notification in the Official Gazette, make rules to Central Government give effect to the provisions of this Ordinance.

to make

- (2) In particular, and without prejudice to the generality of the rules. foregoing power, such rules may provide for-
  - (a) the manner of, and the procedure for, payment of compensation under this Ordinance, including the requirements subject to which the payment shall be made;
  - (b) the determination of persons to whom the said compensation shall be payable in all cases including cases where shares have been held by more than one person, or where they have been transferred before the appointed day, but the transfer has not been registered or where the shareholder is dead;
  - (c) the circumstances under which claims for payment of the said compensation from persons claiming through or under a shareholder may be entertained;
  - (d) the requirements to be complied with before receipt of the said compensation by a shareholder, whose share certificate has been lost, destroyed, mutilated or stolen;
  - (e) the requirements, subject to which information regarding the payment of the said compensation may be granted or refused and the conditions subject to which such information may be given.
- 42. (1) The Reserve Bank may, with the previous approval of Power of the the Central Government, and except in the case of the first regula-Reserve Bank tions, in consultation with the Board of Directors of the Hyderabad to make Bank, make regulations not inconsistent with this Ordinance and regulations. the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Ordinance.

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- (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—
  - (a) the powers and duties of the managing director of the Hyderabad Bank;
  - (b) the fees and allowances which may be paid to directors for attending any meetings of the Board of Directors or of its committees or for attending to any other work of the Hyderabad Bank;
  - (c) the time and place at which, and the manner in which, the business of the Board of Directors shall be transacted and the procedure to be followed at the meetings thereof;
  - (d) the constitution of the executive committee of the Board of Directors and the conditions and limitations subject to which the executive committee may exercise its powers and the procedure to be followed at the meetings thereof;
  - (e) the formation of any other committees of the Board of Directors and the delegation of powers and functions of the Board to such committees and the conduct of business in such committees;
  - (f) the delegation of powers and functions of the Board of Directors to the managing director or other directors or officers or other employees of the Hyderabad Bank;
  - (g) the conditions and limitations subject to which the Hyderabad Bank may appoint officers, advisers and other employees and fix their remuneration and other terms and conditions of service:
  - (h) the duties and conduct of officers, advisers and other employees of the Hyderabad Bank;
  - (i) the establishment and maintenance of pension, provident or other funds for the benefit of officers and employees or for the purposes of the Hyderabad Bank;
  - (j) the conduct and defence of legal proceedings by or against the Hyderabad Bank and the manner of signing pleadings;
  - (k) the provision of a seal for the Hyderabad Bank and the manner and effect of its use;
  - (1) the form and manner in which contracts binding on the Hyderabad Bank may be executed;
  - (m) the maximum amounts which may be advanced or lent or for which bills may be discounted by the Hyderabad Bank,

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the conditions under which advances may be made and the extent to which accounts may be overdrawn;

- (n) the conditions subject to which advances may be made by the Hyderabad Bank to its directors or officers or the relatives of such directors or officers or to companies, firms or individuals with which or with whom such directors or officers or relatives are connected as partners, directors, managers, servants, shareholders or otherwise;
- (o) the persons or authorities who shall administer any pension, provident or other fund constituted by the Hyderabad State Bank before the appointed day, for the benefit of the officers or employees, or for the purposes of the said bank; and the amalgamation of any such fund with any similar fund established by the Hyderabad Bank after the appointed day;
- (p) the circumstances in which the specific approval of the Reserve Bank shall be required to the grant of loans and advances and investment of funds by the Hyderabad Bank, or to any contract, arrangement or proposal entered into or proposed to be entered into by the Hyderabad Bank;
- (q) the preparation and submission to the Reserve Bank of statements of programmes of activities and financial statements of the Hyderabad Bank and the periods for which and the time within which, such statements and estimates are to be prepared and submitted;
- (r) the person or persons in the Reserve Bank by whom any powers, duties or functions conferred, imposed or entrusted on or to the Reserve Bank under this Ordinance may be exercised or performed;
- (s) the periodical inspection of the affairs and business of the Hyderabad Bank by the Reserve Bank;
- (t) the statements, returns and forms that are required for the purposes of this Ordinance; and
- (u) generally for the efficient conduct of the affairs of the Hyderabad Bank.
- (3) Until regulations are made by the Reserve Bank under this section, all by-laws and regulations made under the Hyderabad State Bank Act, 1350F which are in force immediately before the appointed day shall, so far as they are not inconsistent with the provisions of this Ordinance, continue in force with the necessary modifications, and be deemed to be regulations made under this section.
- 43. During the period of operation of this Ordinance, the enact- Amendment ments specified in the Second Schedule shall be amended in the enactments, manner directed therein.

References to Hydera= bad State Bank in other laws. 44. On and from the appointed day, any reference to the Hyderabad State Bank in any law (other than this Ordinance) or in any contract or other instrument shall, except as otherwise provided in any general or special order made by the Central Government, be deemed to be a reference to the Hyderabad Bank.

Saving.

45. Nothing in this Ordinance shall be deemed to affect the power of the State Bank of India constituted under the State Bank of India Act, 1955, to acquire the business of the Hyderabad Bank in <sup>23</sup> of <sup>1955</sup> accordance with the provisions of section 35 of that Act, and where the business of the Hyderabad Bank has been so acquired, the bank shall, on such acquisition stand dissolved and the provisions of this Ordinance shall cease to apply thereto.

#### THE FIRST SCHEDULE

[See section 35]

#### DECLARATION OF FIDELITY AND SECRECY

I,...., do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as director, auditor, adviser, officer or other employee (as the case may be) of the State Bank of Hyderabad and which properly relate to the office or position held by me in the said bank.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the State Bank of Hyderabad or to the affairs of any person having any dealing with the said bank; nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the State Bank of Hyderabad and relating to the business of the said bank or to the business of any person having any dealing with the said bank.

#### THE SECOND SCHEDULE

[See section 43]

I. AMENDMENTS TO THE HYDERABAD STATE BANK ACT, 1350F.

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- 1. In section 2, omit clauses (b) to (k).
- 2. In section 3, in sub-section (1), omit the words "for the purposes of this Act and for carrying on business in accordance with the provisions of this Act".
  - 3. Omit sections 4 to 28 and Schedules I and II.

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II. AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934.

1. In section 10, in clause (e) of sub-section (1), for the words "or any of its subsidiary banks", substitute the following, namely:—

"or any other bank notified by the Central Government in this behalf".

2. In section 17,-

(i) in clause (8A), for the words "or any of its subsidiary banks", substitute the following, namely:—

"or any other bank notified by the Central Government in this behalf";

(ii) after clause (14), insert the following, namely:--

"(14A) the granting of subsidies to the State Bank of Hyderabad for any of the purposes mentioned in section 34 of the State Bank of Hyderabad Ordinance, 1956".

3. In section 45, for the proviso, substitute the following, namely:—

"Provided that nothing herein contained, shall affect-

- (a) the provisions of any agreement subsisting on the 1st day of July, 1955, between the Bank and any other banking institution for the conduct of Government business or other matters; and
- (b) the appointment by the Bank of any banking institution notified by the Central Government in this behalf as agent for the conduct of Government business or other matters at such places in India as may be approved by the Central Government:

Provided further that notwithstanding anything to the contrary contained in any agreement between the Bank and the State Bank, it shall be lawful for the Bank to exclude from the operation of such agreement any place where any of the banking institutions referred to in clause (b) of the preceding proviso may have an office or branch."

4. In the Second Schedule, for the words "Hyderabad State Bank, Hyderabad (Deccan)", substitute "State Bank of Hyderabad".

III. AMENDMENTS TO THE BANKING COMPANIES ACT, 1949.

1. In section 39, for the words "the Reserve Bank or the State Bank of India, as the case may be", substitute the following, namely:—

"the Reserve Bank, the State Bank of India or any other bank notified by the Central Government in this behalf".

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Application of certain provisions to the Sate Bank of India and other notified banks.

2. For section 51, substitute the following, namely:--

"51. Without prejudice to the provisions of the State
Bank of India Act, 1955, or any other enactment, the 23 of 1931
provisions of sections 10, 13 to 15, 17, 19 to 21, 23 to 28, 29
[excluding sub-section (3)], 31, 34 to 36, 37, 45, 46 to 48, 50, 52
and 53 shall also apply, so far as may be, to and in relation to
the State Bank of India or any other banking institution notified by the Central Government in this behalf as they apply
to and in relation to banking companies:

Provided that nothing contained in section 46 shall apply to any officer of the Central Government or the Reserve Bank nominated as director of the State Bank of India or any other banking institution notified by the Central Government under this section.".

RAJENDRA PRASAD,

President.

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A PRASAD. President. "Repealed by Act."

#### **EVACUEE** PROPERTY ADMINISTRATION OF (AMENDMENT) ORDINANCE, 1956

(Published in the Gazette of India Extraordinary, Part II, Section 1, dated the 22nd October, 1956)



No. 6 of 1956

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

An Ordinance further to amend the Administration of Evacuee Property Act, 1950.

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 Administration of Eva-Short title cuee Property (Amendment) Ordinance, 1956

commencement.

(2) It shall come into force at once.

2. During the period of operation of this Ordinance the Adminis- Act 31 of tration of Evacuee Property Act, 1950 (hereinafter referred to as the temporarity in sections 3 to 14.

principal Act, shall have effect subject to the amendments specified amended.

3. In section 6 of the principal Act,—

Amendment of scetion 6

- (a) for sub-section (1), the following sub-section shall be substituted, namely:—
  - "(1) The Central Government may, by notification in the Official Gazette, appoint for any State a Custodian and as many Additional, Deputy or Assistant Custodians of Evacuee Property as may be necessary for the purpose of discharging the duties imposed on the Custodian by or under this Act, and the same person may be appointed as the

Price Annas 2 or 3d.

- Custodian, or as the case may be, Additional, Deputy or Assistant Custodian of Evacuee Property for two or more States.":
  - (b) in sub-section (3),—
  - (i) for the words "State Government", the words "Central Government" shall be substituted;
  - (ii) the following proviso shall be inserted at the end, namely: --

"Provided that nothing in this sub-section shall be deemed to empower the Custodian to question any order made by an Additional, Deputy or Assistant Custodian in respect of any matter which the Additional, Deputy or Assistant Custodian is empowered by or under this Act to determine".

Amendment

4. In sub-section (3) of section 8, sub-section (3) of section 15, of sections 8, section 38 and sub-section (1) of section 51, of the principal Act, for the words "State Government", wherever they occur, the words "Central Government" shall be substituted.

Amendment of section 10.

- 5. In section 10 of the principal Act, in sub-section (2),—
- (a) clauses (f), (g), (h), (k) and (p) and the proviso to clause (q) shall be omitted;
- (b) in clause (m), the words "or of any amounts due to any employee of the evacuee or of any debt due by the evacuee to any person" shall be omitted.

Amendment of section 11.

- 6. In section 11 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:-
  - "(1) Where any evacuee property which has vested in the Custodian is property in trust for a public purpose of a religious or charitable nature, it shall be lawful for the Central Government, notwithstanding anything contained in the instrument of trust or any law for the time being in force, to appoint, by general or special order, new trustees in place of the evacuee trustees and the property shall remain vested in the Custodian only until such time as the new trustees are so appointed; and pending the appointment of such new trustees the trust property and the income thereof shall be applied by the Custodian for fulfilling, as far as possible, the purpose of the trust."

Amendment of section 16.

- 7. In section 16 of the principal Act,—
- (a) for sub-sections (1), (2) and (2A), the following subsections shall be substituted, namely:-
  - "(1) Subject to such rules as may be made in this behalf, any evacuee or any person claiming to be an heir of an evacuee may apply to the Central Government or to any

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this behalf, heir of an or to any

person authorised by the Central Government in this behalf (hereinafter in this section referred to as the 'authorised person') that any evacuee property which has vested in the Custodian and to which the applicant would have been entitled if this Act were not in force, may be restored to

(2) On receipt of an application under sub-section (1), the Central Government or the authorised person, as the case may be, shall cause public notice thereof to be given in the prescribed manner, and after causing an inquiry into the claim to be held in such manner as may be prescribed, shall-

#### (a) if satisfied—

OF 1956]

- (i) that the conditions prescribed by rules made in this behalf have been satisfied;
- (ii) that the evacuee property is the property of the applicant; and
- (iii) that it is just or proper that the evacuee property should be restored to him;

make an order restoring the property to the applicant, or

(b) if not so satisfied, reject the application:

Provided that where the application is rejected on the ground that the evacuee property is not the property of the applicant the rejection of the application shall not prejudice the right of the applicant to establish his title to the property in a civil court, or

(c) if there is any doubt with respect to the title of the applicant to the property, refer him to a civil court for the determination of his title:

Provided that no order for the restoration of any evacuee property shall be made under this sub-section unless provision has been made in the prescribed manner for the recovery of any amount due to the Custodian in respect of the property or the management thereof.".

8. In section 24 of the principal Act, for sub-section (1), the Amendment of section 24. following sub-sections shall be substituted, namely:-

- "(1) Any person aggrieved by an order made under section 7, section 40 or section 48 may prefer an appeal-
  - (a) to the Custodian, where the original order has been passed by a Deputy or Assistant Custodian and the amount

or the value of the property which is the subject-matter of the order does not exceed two thousand rupees;

- (b) to the Custodian-General, in any other case.
- (1A) An appeal shall lie to the Custodian-General from any order made on appeal by the Custodian under clause (a) of sub-section (1), on the ground that the order is contrary to law.
- (1B) An appeal under this section shall be made in such manner and within such time as may be prescribed.".

Omission of sections 25, 26,29,30,31, 33,35,42 and 55 (2).

9. Sections 25, 26, 29, 30, 31, 33, 35, 42 and sub-section (2) of section 55 of the principal Act shall be omitted.

Amendment of section 27.

- 10. In section 27 of the principal Act.—
- (a) in sub-section (1), the words "district Judge or" shall be omitted;
  - (b) sub-sections (IA), (2) and (3) shall be omitted.

Amendment of section 28.

11. In section 28 of the principal Act, the words "district Judge" shall be omitted.

Amendment of section 40.

- 12. In section 40 of the principal Act,—
  - (a) in sub-section (2), in clause (b), the words "or does not leave" shall be omitted:
    - (b) sub-section (8) shall be omitted.

Substitution of new section for section 48.

13. For section 48 of the principal Act, the following section shall be substituted, namely:—

Recovery or certain sums as arrears of land revenue.

- "48 (1) Any sum payable to the Government or to the Custodian in respect of any evacuee property, under any agreement, express or implied, lease or other document or otherwise howsoever, may be recovered in the same manner as an arrear or land revenue.
- (2) If any question arises whether a sum is payable to the Government or to the Custodian within the meaning of subsection (1), the Custodian shall, after making such inquiry as he may deem fit, and giving to the person by whom the sum is alleged to be payable an opportunity of being heard, decide the question; and the decision of the Custodian shall, subject to any appeal or revision under this Act, be final and shall not be called in question by any court or other authority.
- (3) For the purposes of this section, a sum shall be deemed to be payable to the Custodian, notwithstanding that its recovery

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is barred by the Indian Limitation Act, 1908, or any other law for the time being in force relating to limitation of actions."

14. In section 56 of the principal Act, in sub-section (2),

Amendment of section 56,

- (a) sub-clause (o) shall be omitted;
- (b) for sub-clause (s), the following sub-clauses shall be substituted, namely:—
  - "(s) the terms and conditions of service of the Custodian and other officers appointed under this Act and for the furnishing of security by them;
  - (t) the work to be performed by the Custodian, and the Additional, Deputy or Assistant Custodians;
  - (u) the delegation of powers of the Custodian to the Additional, Deputy or Assistant Custodians;
  - (v) the fees payable to the Custodian for the management and disposal of any property vested in him and the manner in which such fees shall be paid;
  - (w) the persons by whom and the time at which books of accounts maintained under this Act may be inspected and audited;
  - (x) any other matter which has to be or may be prescribed under this Act.";
  - (c) sub-section (3) shall be omitted.

15. Any appointment or order made under section 6, and any Certain apprule made under sub-section (3) of section 56 of the principal Act pointments, orders and before the commencement of this Ordinance which is in force at rules to consuch commencement shall be deemed to have been made by the force. Central Government and shall continue in force accordingly until and unless it is superseded by any appointment, order or rule made under section 6, or, as the case may be, section 56 of the principal Act, as amended by this Ordinance.

16. The provisions of sub-section (1) of section 24 of the principal provision of Act, as substituted by section 8 of this Ordinance, shall apply to all apply in respect of all appeals instituted after the commencement of this Ordinance.

RAJENDRA PRASAD,

President.

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"Repealed by Act." THE DISPLACED PERSONS (COMPENSATION AND REHABILITATION) AMENDMENT ORDINANCE, 1956 (Published in the Gazette of India Extraordinary, Part II, Section I, dated the 22nd October, 1956)



No. 7 of 1956

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

An Ordinance to amend the Displaced Persons (Compensation and Rehabilitation) Act, 1954.

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 Displaced Persons (Com- Short title pensation and Rehabilitation) Amendment Ordinance, 1956.

and mencement.

(2) It shall come into force at once.

2. During the period of operation of this Ordinance, the Displac- Act 44 of ed Persons (Compensation and Rehabilitation) Act, 1954 (herein-1954 to be after referred to as the principal Act), shall have effect subject to amended. the amendments specified in sections 3 to 8.

3. In section 2 of the principal Act,—

Amendment of section 2.

(i) in clause (d), in sub-clause (iii), for the words 'by the Central Government or a State Government of any property or any interest therein;', the following shall be substituted, namely:-

> of any property or interest therein by-(a) the Central Government; or

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4 of 1954.

- (b) any State Government; or
- (c) any body corporate or other authority or person financed by the Central Government or a State Government for the purpose of the acquisition, development or construction of any immovable property for the rehabilitation of displaced persons;";.
- (ii) in clause (e), for the words 'but does not include', the following shall be substituted, namely:-

"and includes any claim registered on or before the 31st day of May, 1953, under the East Punjab Refugees (Registra- East Punjab Refugees) tion of Claims) Act, 1948, or under the Patiala Refugees 1948. (Registration of Land Claims) Ordinance, 2004, and verified Ord. 10 2004 BK by any authority appointed for the purpose by the Government of Punjab, the Government of Patiala or the Government of Patiala and East Punjab States Union, as the case may be, which has not been satisfied wholly or partially by the allotment of any evacuee land under the relevant notification specified in section 10 of this Act, but does not include-".

Amendment of section 11.

4. In section 11 of the principal Act, sub-section (2) shall be omitted.

Amendment of section 19.

5. In section 19 of the principal Act, in sub-section (2), after the words 'acquired under this Act', the fallowing words shall be inserted, namely: -

"or where any person is otherwise in unauthorised possession of any such property or any other immovable property forming part of the compensation pool-".

Amendment of section 20.

6. In section 20 of the principal Act, in clause (d) of sub-section (1), after the words 'to a displaced person', the following words shall be inserted namely: -

"or any association of displaced persons, whether incorporated or not, or to any other person".

Insetion of new section

7. (1) After section 20 of the principal Act, the following section: shall be inserted namely:—

Uvilisation of compensation pool in connection with restoration of evacuee proper-ty in certain cases.

"20A. (1) Where any evacuec or his heir has made an application under section 16 of the Evacuee Property Act and the Central Government is of opinion that it is not expedient or practicable to restore the whole or any part of such property to the applicant by reason of the property or part thereof being

OF 1956] Displaced Persons (Compensation and Rehabilitation Amendment) 3

in occupation of a displaced person or otherwise, then, notwithstanding anything contained in the Evacuee Property Act and this Act, it shall be lawful for the Central Government—

- (a) to transfer to the applicant in lieu of the evacuee property or any part thereof, any immovable property in the compensation pool or any part thereof, being in the opinion of the Central Government as nearly as may be of the same value as the evacuee property or, as the case may be, any part thereof, or
- (b) to pay to the applicant such amount in cash from the compensation pool in lieu of the evacuee property or part thereof, as the Central Government having regard to the value of the evacuee property or part thereof, may, in the circumstances deem fit.

Explanation.—The provisions of this sub-section shall apply, whether or not, a certificate for the restoration of the evacuee property has been issued to the applicant under subsection (1) of section 16 of the Evacuee Property Act, as in force before the commencement of the Administration of Evacuee Property (Amendment) Ordinance, 1956, if the evacuee property has not in fact been restored to the applicant.

(2) Where in pursuance of sub-section (1) any evacuee or his heir has been granted any immovable property from the compensation pool or has been paid any amount in cash from the compensation pool, his application under section 16 of the Evacuee Property Act for the restoration of the evacuee property shall be deemed to have been disposed of and his right, title and interest in such evacuee property shall be deemed to have been extinguished but such extinguishment shall not affect the power of the Central Government to acquire the evacuee property under section 12 of this Act.

#### (3) In this section—

- (a) Evacuee Property Act' means the Administration of Evacuee Property Act, 1950;
- (b) the expressions 'evacuee' and 'evacuee property' have respectively the same meanings as in the Evacuee Property Act."

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- Displaced Persons (Compensation and Rehabilitation) Amendment [ORD. 7 OF 1956]
- 8. For section 21 of the principal Act, the following section shall Substitution be substituted, namely:-

section section 21.

"21. (1) Any sum payable to the Government or to the Recovery of Custodian in respect of any evacuee property, under any agreement, express or implied, lease or other document or otherwise land revenue howsoever for any period prior to the date of acquisition of such property under this Act, which has not been recovered under section 48 of the Administration of Evacuee Property Act, 1950, and any sum payable to the Government in respect of any property in the compensation pool, may be recovered in the same manner as an arrear of land revenue.

31 of 1950.

(2) If any question arises whether a sum is payable to the Government or to the Custodian within the meaning of subsection (1) in respect of any property referred to therein, it shall be referred to the Settlement Commissioner within whose jurisdiction the property is situated, and the Settlement Commissioner shall after making such inquiry as he may deem fit and giving to the person by whom the sum is alleged to be payable an opportunity of being heard, decide the question; and the decision of the Settlement Commissioner shall, subject to any appeal or revision under this Act, be final, and shall not be called in question by any court or other authority.

(3) For the purposes of this section, a sum shall be deemed to be payable to the Custodian, notwithstanding that its recovery is barred by the Indian Limitation Act, 1908, or any other law for the time being in force, relating to limitation of actions."

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RAJENDRA PRASAD,

President.

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#### ROAD TRANSPORT CORPORATIONS (AMENDMENT) ORDINANCE, 1956

(Published in the Gazette of India Extraordinary, Part II, Section 1, dated the 1st November, 1956)



No. 8 of 1956

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

An Ordinance to amend the Road Transport Corporations Act, 1950.

f 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, THERFORE, 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 Road Transport Corpo-Short rations (Amendment) Ordinance, 1956.

(2) It shall come into force at once.

title and commencement.

2. During the period of operation of this Ordinance, the Road Insertion 64 of 1950. Transport Corporations Act, 1950, shall have effect as if after of new section 47, the following section had been inserted, namely:-

section

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"47A. (1) Where on account of the reorganisation of Special States under the States Reorganisation Act, 1956, the whole or provision any part of a State in respect of which a Corporation was, immediately before the 1st day of November, 1956, functioning and operating, is transferred on that day to another State and dissolution of certain by reason of such transfer, it appears to the State Gov-Corporations. ernment necessary or expedient that the Corporation should be reconstituted or reorganised in any manner whatsoever or that it should be dissolved, the State Government may frame a scheme for the reconstitution, reorganisation or dissolution of the Corporation including proposals regarding the formation of new Corporations, the amalgamation of the Corporation with any other Corporation, body corporate or a commercial undertaking of another State Government, the transfer of the assets, rights and liabilities of the Corporation in whole or in part to any other Corporation, body corporate or a commercial

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undertaking of another State Government and the transfer or re-employment of any workmen of the Corporation, and the State Government may forward the scheme to the Central Government for approval.

- (2) On receipt of any such scheme, the Central Government may, after consultation with the State Governments concerned, approve the scheme with or without modifications and for the purpose of giving effect to the approved scheme, the Central Government may, from time to time, make such order in relation thereto as it thinks fit and every order so made shall have effect notwithstanding anything contained in this Act.
- (3) Any order made under sub-section (2) may provide for all or any of the following matters, namely:-
  - (a) the dissolution of the Corporation, notwithstanding anything contained in section 39;
  - (b) the reconstitution or reorganisation, in any manner whatsoever, of the Corporation including the establishment. where necessary, of more than one Corporation in any
  - (c) the amalgamation of two or more Corporations, or of one Corporation with any other body corporate or a commercial undertaking of any other State Government;
  - (d) the extension of the area for which the Corporation is established, or the exclusion of any area therefrom;
  - (e) the transfer, in whole or in part, of the assets, rights and liabilities of the Corporation including the transfer of any licences or permits granted to the Corporation. to any other Corporation, body corporate or a commercial undertaking of any other State Government, and the terms and conditions of such transfer:
  - f) the transfer or re-employment of any workmen of the Corporation to, or by, any such transferee, and, subject to the provisions of section 111/of the States Reorganisation Act, 1956, the terms and conditions of service applicable to 37 of 1956. such workmen after such transfer or re-employment;

- (g) such incidental, consequential and supplemental matters as may be necessary to give effect to the approved to scheme.
- (4) Where an order is made under this section transferring the assets, rights and liabilities to any Corporation, then, by virtue of that order, such assets, rights and liabilities of the Corporation shall vest in, and be the assets, rights and liabilities of, the transferee."

RAJENDRA PRASAD.

· President.

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PRASAD,
President.

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#### THE REPRESENTATION OF THE PEOPLE (AMEND-MENT) ORDINANCE, 1956

(Published in the Gazette of India Extraordinary, Part II, Section 1, dated the 8th January, 1956)



No. 9 of 1956

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

An Ordinance further to amend the Representation of the People 'Act, 1950.

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 Representation of the Short People (Amendment) Ordinance, 1956.
  - Short title and commencement.

- (2) It shall come into force at once.
- 2. During the period of operation of this Ordinance, section 24 of Amendment the Representation of the People Act, 1950 shall have effect subject of section 24. to the following amendment, namely:—

That in sub-section (I) thereof, for the words, letters and figures "the 1st day of November, 1956", the words, letters and figures "the 1st day of December, 1956" shall be substituted and shall be deemed always to have been substituted,

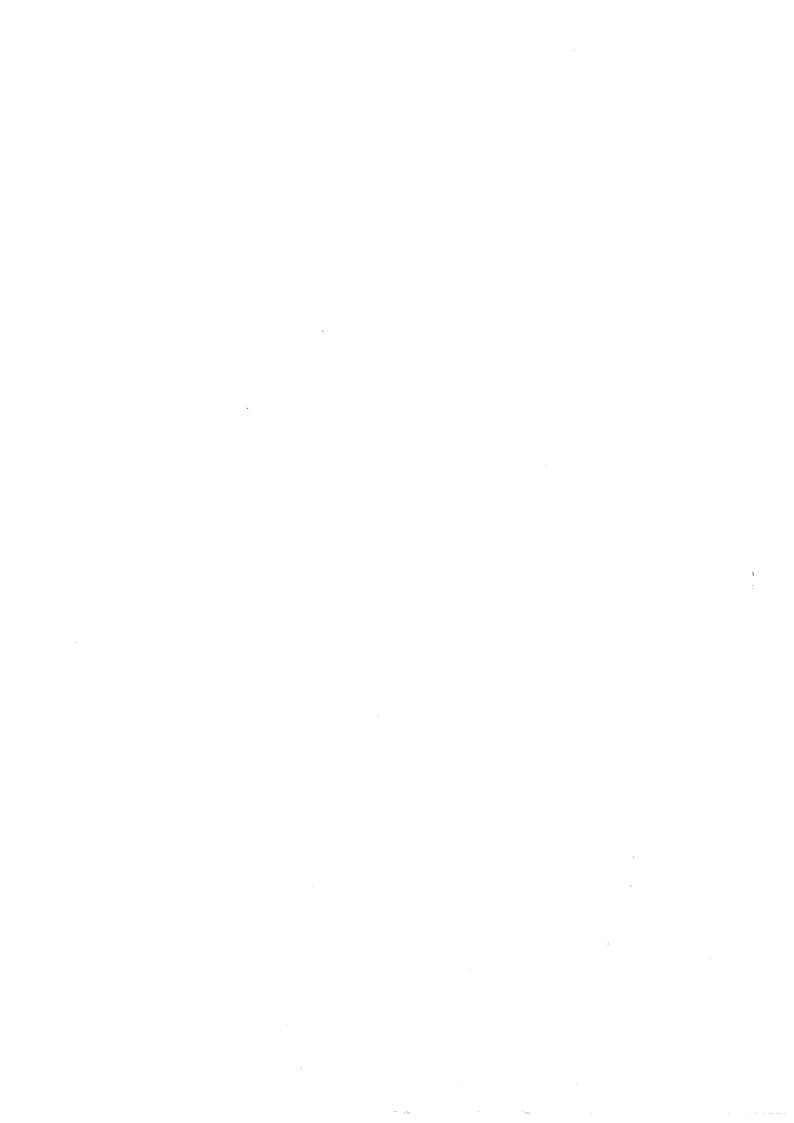
RAJENDRA PRASAD,

President.

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"Originaled by Act 11 gr 1957" THE FOREIGNER LAWS (AMENDMENT) ORDINANCE, 1957 (Published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 19th January, 1957) No. 1 of 1957 Promulgated by the President in the Seventh Year of the Republic of India. An Ordinance further to amend the Foreigners Act, 1946, and the Registration of Foreigners Act, 1939. f W HEREAS a Bill further to amend the Foreigners Act, 1946, and the Registration of Foreigners Act, 1939, has been introduced in Parliament, but has not yet 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 amendments proposed in the said Bill; Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased promulgate the following Ordinance:-1. (1) This Ordinance may be called the Foreigners Laws Short title and com-(Amendment) Ordinance, 1957. mencement. (2) It shall come into force at once. 2. During the period of operation of this Ordinance, the Act 31 of 2. During the period of operation of this Ordinance, the 1946 and Act Foreigners Act, 1946, shall have effect subject to the amendments 16 of 1939 of 1946. specified in sections 3 to 8; and, the Registration of Foreigners Act, to be temporarily amendof 1939. 1939, shall have effect subject to the amendment specified in section 9. ed. 3. In the Foreigners Act, 1946 (hereinafter referred to as the Amendment Foreigners Act), in section 2, for clause (a), the following clause of section 2. shall be substituted; namely:-'(a) "foreigner" means a person who is not a citizen of India;'. Price: annas 2 or 3d.

Amendment of section 3.

- 4. In section 3 of the Foreigners Act,-
- (a) in sub-section (2), the brackets, letter and words "(g) shall be arrested and detained or confined;" shall be omitted;
- (b) in sub-section (3), for the words, brackets and letters, clause (f) or clause (g)", the words, brackets and letter "or clause (f)" shall be substituted.

Insertion of 5. After section 3 of the Foreigners Act, the following secnew section tion shall be inserted, namely:—

rower to exempt citizens of Commonwealth countries and other persons from application of Act in certain cases.

- "3A. (1) The Central Government may, by order, declare that all or any of the provisions of this Act or of any order made thereunder shall not apply, or shall apply only in such circumstances or with such exceptions or modifications or subject to such conditions as may be specified in the order, to or in relation to—
  - (a) the citizens of any such Commonwealth country as may be so specified; or
  - (b) any other individual foreigner or class or description of foreignes
- (2) A copy of every order made under this section shall be placed on the table of both Houses of Parliament as soon as may be after it is made.".

Amendment of section 4.

- 6. In section 4 of the Foreigners Act,—
  - (a) sub-section (1) shall be omitted;
- (b) for sub-sections (3) and (4), the following sub-sections shall be substituted, namely:—
  - "(3) No person shall-
  - (a) knowingly assist a person on parole to escape from the place set apart for his residence or knowingly harbour any such person, or
  - (b) give a person on parole any assistance with intent thereby to prevent, hinder or interfere with the apprehension of such person.
  - (4) The Central Government may, by order, provide for regulating access to, and the conduct of persons in, places where persons on parole are restricted, and for prohibiting or regulating the despatch or conveyance from out-

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side such places to or for such persons therein of such articles as may be prescribed.".

- 7. In section 5 of the Foreigners Act, in sub-section (5), the word Amendment of section 5. "Royal" shall be omitted.
  - 8. Section 10 of the Foreigners Act shall be omitted.

Omission of section 10.

9. In the Registration of Foreigners Act, 1939, in section 2, for Amendment 14 of 1939. clause (a), the following clause shall be substituted, namely:—

of section 2.

'(a) "foreigner" means a person who is not a citizen of India;'.

> RAJENDRA PRASAD. President.

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#### **EXTRAORDINARY**

PART II-Section 1.

PUBLISHED BY AUTHORITY

No. 4]

NEW DELHI, MONDAY, MARCH 4, 1957

#### MINISTRY OF LAW

New Delhi, the 4th March, 1957

## THE PREVENTION OF CORRUPTION (AMENDMENT) ORDINANCE, 1957

No. 2 of 1957

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

An Ordinance further to amend the Prevention of Corruption Act, 1947.

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 Prevention of Corruption Short and (Amendment) Ordinance, 1957.

n Short title and commencement.

(2) It shall come into force at once.

2 o**f** 1947.

2. During the period of operation of this Ordinance, the Preven-Amendment tion of Corruption Act, 1947, shall have effect as if sub-section (3) of section 1. of section 1 had been omitted.

RAJENDRA PRASAD,

President.

K. V. K. SUNDARAM, Secy. to the Govt. of India.

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PRINTED IN INDIA BY THE GENERAL MANAGER, COVERNMENT OF INDIA PRESS, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1957

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#### EXTRAORDINARY

PART II—Section 1

#### PUBLISHED BY AUTHORITY

No IO NEW DELHI, SATURDAY,

APRIL 20, 1957/CHAITRA 30, 1879

#### MINISTRY OF LAW

New Delhi the 20th April, 1957

THE LIFE INSURANCE CORPORATION (AMENDMENT) ORDINANCE, 1957

No. 3 OF 1957

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

An Ordinance to amend the Life Insurance Corporation Act, 1956.

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 Life Insurance Corpora- Short title tion (Amendment) Ordinance, 1957.

and commencement.

- (2) It shall come into force at once.
- 2. During the period of operation of this Ordinance, section 11 Amendment of the Life Insurance Corporation Act, 1956 (hereinafter referred to as the principal Act), shall have effect as if for sub-section (2) thereof, the following sub-section had been substituted, namely:-
  - "(2) Where the Central Government is satisfied that for the purpose of securing uniformity in the scales of remuneration and the other terms and conditions of

(159)

31 of 1956.

applicable to employees of insurers whose controlled business has been transferred to, and vested in, the Corporation it is necessary so to do, or that, in the interests of the Corporation and its policy-holders, a reduction in the remuneration payable to employees or any class of them is called for, the Central Government may from time to time, notwithstanding anything contained in sub-section (1), or in the Industrial Disputes Act, 1947, or in any other law for the time being in force, or in any award, settlement or agreement for the time being in force, (whether by way of reduction or otherwise) the remuneration and the other terms and conditions of service to such extent and in such manner as it thinks fit; and if the alteration is not acceptable to any employee, the Corporation may terminate his employment by giving him compensation equivalent to three months' remuneration unless the contract service with such employee provides for a shorter notice of termination.

Explanation.—The compensation payable to an employee under this sub-section shall be in addition to, and shall not affect, any pension, gratuity, provident fund money or any other benefit to which the employee may be entitled under his contract of service.".

Validation of orders passed mencement of Ordinance altering re-muneration, e cc.

3. Any order altering the remuneration and the other terms before com- and conditions of service of the employees referred to in sub-section (2) of section 11 of the principal Act made or purporting to have been made under that sub-section before the commencement of this Ordinance by the Central Government for any of the purposes specified in that sub-section as amended by this Ordinance, shall, notwithstanding anything contained in any judgment, decree or order of any court, be deemed to have been made under that sub-section as amended by this Ordinance as if this Ordinance were in force on the date on and from which the order was intended to take effect, and the order shall continue in force and have effect accordingly.

> RAJENDRA PRASAD, President.

K. V. K. SUNDARAM, Secy. to the Govt. of India.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1957

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### EXTRAORDINARY PART II—Section 1 PUBLISHED BY AUTHORITY

No. 11] NEW DELHI, SATURDAY, APRIL 27, 1957/VAISAKHA 7, 1879

#### MINISTRY OF LAW

New Delhi, the 27th April, 1957

THE INDUSTRIAL DISPUTES (AMENDMENT) ORDINANCE, 1957

No. 4 of 1957

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

An Ordinance further to amend the Industrial Disputes Act, 1947.

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

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

- 1. (1) This Ordinance may be called the Industrial Disputes Short title and com-(Amendment) Ordinance, 1957. mencement.
- (2) It shall be deemed to have come into force on the 1st day of December, 1956.
- 2. During the period of operation of this Ordinance, the Industrial Substitution Disputes Act, 1947, shall have effect as if for section 25FF, the of new sections for secfollowing sections had been substituted, namely:-

"25 FF. Where the ownership or management of an under- Compensataking is transferred, whether by agreement or by operation of tion to worklaw, from the employer in relation to that undertaking to a of transfer

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RASAD, President.

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new employer, every workman who has been in continuous service for not less than one year in that undertaking, immediately before such transfer, shall be entitled to notice and compensation in accordance with the provisions of section 25 F, as if the workman had been retrenched:

Provided that nothing in this section shall apply to a workman in any case where there has been a change of employers by reason of the transfer, if—

- (a) the service of the workman has not been interrupted by such transfer;
- (b) the terms and conditions of service applicable to the workman after such transfer are not in any way less favourable to the workman than those applicable to him immediately before the transfer; and
- (c) the new employer is, under the terms of the transfer or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer.

Compensation to workmen in case of closing down of undertakings. 25 FFF. (1) Where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (2), be entitled to notice and compensation in accordance with the provisions of section 25 F, as if the workman had been retrenched:

Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer, the total compensation to be paid to the workman shall not exceed his average pay for three months.

(2) Where any undertaking set up for the construction of buildings, bridges, roads, canals, dams or other construction works is closed down on account of the completion of the work within two years from the date on which the undertaking had been set up, no workman employed therein shall be entitled to any compensation under sub-section (1), but if the construction

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ction of truction ne work ing had itled to truction work is not so completed within two years, he shall be entitled to compensation under that sub-section for every completed year of service or any part thereof in excess of six months, excluding therefrom the first two years of his service in that undertaking.".

RAJENDRA PRASAD, President.

G. R. RAJAGOPAUL, Addl. Secy. to the Govt. of India.



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### **EXTRAORDINARY**

PART II—Section 1

### PUBLISHED BY AUTHORITY

No. 20] NEW DELHI, WEDNESDAY, AUGUST 7, 1957/SRAVANA 16, 1879

#### MINISTRY OF LAW

New Delhi, the 7th August, 1957

## THE ESSENTIAL SERVICES MAINTENANCE ORDINANCE, 1957

No. 5 of 1957.

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

An Ordinance to provide for the maintenance of certain essential services and the normal life of the community.

WHEREAS a Bill to provide for the maintenance of certain essential services and the normal life of the community has been passed by the House of the People;

And whereas the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the 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:—

- 1. (1) This Ordinance may be called the Essential Services Short title Maintenance Ordinance, 1957.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
  - 2. (1) In this Ordinance—

Definitions.

- (a) "essential service" means—
  - (i) any postal, telegraph or telephone service;
- (ii) any railway service or any other transport service for the carriage of passengers or goods by land, water or air;

- service connected with the operation or maintenance of aerodromes, or with the operation, repair or maintenance of aircraft;
- (iv) any service connected with the loading, unloading, movement or storage of goods in any port;
  - (v) any service in any mint or security press;
- (vi) any service in any defence establishment of the Government of India connected with the manufacture, storage or distribution of arms, ammunition or other military stores or equipment;
- (vii) any service which the Central Government, being of opinion that strikes therein would prejudicially affect the maintenance of any public utility service or would result in the infliction of grave hardship on the community may, by notification in the Official Gazette, declare to be an essential service for the purposes of this Ordinance;
- (b) "strike" means the cessation of work by a body of persons employed in any essential service acting in combination or a concerted refusal or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment.
- (2) Every notification issued under sub-clause (vii) of clause (a) of sub-section (1) shall be laid before each House of Parliament as soon as may be after it is made, and shall cease to operate at the expiration of forty days from the re-assembly of Parliament 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-assemble on different dates, the period of forty days shall be reckoned from the later of those dates.

Power to prohibit strikes in certain

- 3. (1) If the Central Government is satisfied that in the public interest it is necessary or expedient so to do, it may, by general or employments special order, prohibit strikes in any essential service specified in the Order.
  - (2) An Order made under sub-section (1) shall be published in such manner as the Central Government considers best calculated to bring it to the notice of the persons affected by the Order.
  - (3) An Order made under sub-section (1) shall be in force for six months only, but the Central Government may, by a like Order, extend it for any period not exceeding six months if it is satisfied that in the public interest it is necessary or expedient so to do.

- (4) Upon the issue of an Order under sub-section (1),—
- (a) no person employed in any essential service to which the Order relates shall go or remain on strike;
- (b) any strike declared or commenced, whether before or after the issue of the Order, by persons employed in any such service shall be illegal.
- 4. Any person who commences a strike or remains or otherwise Penalty for takes part in a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees or with both.

illegal strikes.

5. Any person who instigates, or incites other persons to take Penalty for part in, or otherwise acts in furtherance of, a strike which is illegal etc. under this Ordinance shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

6. Any person who knowingly expends or supplies any money Penalty for in furtherance or support of a strike which is illegal under this cial aid to Ordinance shall be punishable with imprisonment for a term which illegal strikes. may extend to one year or with fine which may extend to one thousand rupees or with both.

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7. Notwithstanding anything contained in the Code of Criminal Power to arrest with-Procedure, 1898, any police officer may arrest without warrant any out warrant. person who is reasonably suspected of having committed any offence under this Ordinance.

8. The provisions of this Ordinance and of any Order issued Ordinance thereunder shall have effect notwithstanding anything inconsistent ride other therewith contained in the Industrial Disputes Act, 1947, or in any laws. other law for the time being in force.

of 1947

RAJENDRA PRASAD, President.

G. R. RAJAGOPAUL, Addl. Secy. to the Govt. of India.



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REGISTERED No. D. 221:

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### **EXTRAORDINARY** PART II—Section 1 PUBLISHED BY AUTHORITY

No. 34] NEW DELHI, THURSDAY, OCTOBER 31, 1957/KARTIKA 9, 1879

#### MINISTRY OF LAW

New Delhi, the 31st October, 1957

### THE RESERVE BANK OF INDIA (AMENDMENT) ORDINANCE, 1957

No. 6 of 1957

Promulgated by the President in the Eighth Year of the Republic of India

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

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

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

1. (1) This Ordinance may be called the Reserve Bank of India Short (Amendment) Ordinance, 1957.

and mencement.

- (2) It shall come into force at once.
- 2. During the period of operation of this Ordinance, the Reserve Bank of India Act, 1934 (hereinafter referred to as the principal Act), 1934 to be shall have effect subject to the amendments specified in sections 3 temporari amended. and 4.

Amendment

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- 3. In section 33 of the principal Act, for sub-section (2), of section 33. following sub-section shall be substituted, namely:—
  - "(2) The aggregate value of the gold coin, gold bullion and foreign securities held as assets and the aggregate value of the gold coin and gold bullion so held shall not at any time be less than two hundred crores of rupees and one hundred and fifteen crores of rupees, respectively."

Amendment of section 37. 4. In section 37 of the principal Act, the proviso shall be omitted.

RAJENDRA PRASAD, President.

G. R. RAJAGOPAUL, Addl. Secy. to the Govt. of India. -SEq. 1]

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### EXTRAORDINARY

PART II Section I

PUBLISHED BY AUTHORITY

Repealed by Act 28 of 1958

No. 18] NEW DELHI, THURSDAY, MAY 22, 1958/JYAISTHA 1, 1880

#### MINISTRY OF LAW

New Delhi, the 22nd May, 1958/Jyaistha 1, 1880 (Saka)

### THE ARMED FORCES (ASSAM AND MANIPUR)

SPECIAL POWERS ORDINANCE, 1958

No. 1 of 1958

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

An Ordinance to enable certain special powers to be conferred upon members of the armed forces in disturbed areas in the State of Assam and the Union territory of Manipur.

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 Armed Forces (Assam and Manipur) Special Powers Ordinance, 1958.

Short title, extent and commence-

- (2) It extends to the whole of the State of Assam and the Union territory of Manipur.
  - (3) It shall come into force at once.
  - 2. In this Ordinance, unless the context otherwise requires,—

Definitions.

(a) "armed forces" means the military forces and the air forces operating as land forces, and includes any other armed forces of the Union so operating;

- (b) "disturbed area" means an area which is for the time being declared by notification under section 3 to be a disturbed area;
- (c) all other words and expressions used herein but not defined and defined in the Air Force Act, 1950, or the Army Act, 45 of 10, 1950, shall have the meanings respectively assigned to them in 46 of 10, those Acts.

Power to declare areas to be disturbed areas.

3. If the Governor of Assam or the Chief Commissioner of Manipur is of the opinion that the whole or any part of the State of Assam or the Union territory of Manipur, as the case may be, is in such a disturbed or dangerous condition that the use of armed forces in aid of the civil power is necessary, he may, by notification in the Official Gazette, declare the whole or any part of the State or Union territory to be a disturbed area.

Special powers of the armed forces.

- 4. (1) Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed area,—
  - (a) if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances;
  - (b) if he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made, or any structure used as a training camp for armed volunteers or utilised as a hide-out by armed gangs or absconders wanted for any offence;
  - (c) arrest, without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest;
  - (d) enter and search without warrant any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any property reasonably suspected to be stolen property or any arms, ammunition or

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explosive substances believed to be unlawfully kept in such premises, and may for that purpose use such force as may be necessary.

- 5. Any person arrested and taken into custody under this Ordi-Arrested pernance shall be made over to the officer in charge of the nearest police sons to be station with the least possible delay, together with a report of the the police. circumstances occasioning the arrest.
- 6. No prosecution, suit or other legal proceeding shall be institut- Protection to ed, except with the previous sanction of the Central Government, persons actagainst any person in respect of anything done or purported to be Ordinance. done in exercise of the powers conferred by this Ordinance.

RAJENDRA PRASAD.

President.

G. R. RAJAGOPAUL, Addl. Secy. to the Govt. of India.

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**EXTRAORDINARY** 

Part II-Section 1

Repealed log Act 26 9/958

PUBLISHED BY AUTHORITY

NEW DELHI, THURSDAY, JUNE 5, 1958/JYAISTHA 15, 1880 No. 19]

#### MINISTRY OF LAW

NewDelhi, the 5th June, 1958/Jyaistha 15, 1880 (Saka).

### THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ORDINANCE, 1958

No. 2 of 1958

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

An Ordinance further to amend the Code of Criminal Procedure, 1898.

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 Code of Criminal Procedure (Amendment) Ordinance, 1958.

Short title mencement,

(2) It shall come into force at once.

(129)

Temporary amendment of Act 5 of 1898. 2. During the period of operation of this Ordinance, the Code of Criminal Procedure, 1898, shall have effect as if after section 105, the following section had been inserted, namely:—

Special rules regarding execution of certain processes issued by courts in Jammu and Kashmir in the rest of India and vice versa.

- "105A. (1) Where a court in the territories to which this Code extends (hereinafter in this section referred to as the said territories) desires that—
  - (a) a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or
    - (b) a search warrant,

issued by it shall be served or executed at any place within the local limits of the jurisdiction of a court in the State of Jammu and Kashmir, it may send such summons or warrant in duplicate by post or otherwise to the presiding officer of that court to be served or executed.

- (2) Where a court in the said territories has received for service or execution—
  - (a) a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or
    - (b) a search warrant,

issued by a court in the State of Jammu and Kashmir, it shall cause the same to be served or executed as if it were a summons or warrant received by it from another court in the said territories for service or execution within the local limits of its jurisdiction; and where any such search warrant has been so executed, the things found in the search shall, so far as possible, be dealt with in accordance with the procedure prescribed by section 99.".

RAJENDRA PRASAD,

President.

G. R. RAJAGOPAUL, Addl. Secy. to the Govt. of India

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### EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

Repealed Leg. Act 29 9/195.

No. 20] NEW DELHI, SATURDAY JUNE 14, 1958/JYAISTHA 24, 1880

#### MINISTRY OF LAW

New Delhi, the 14th June, 1958/Jyaistha 24, 1880 (Saka)

### THE WORKING JOURNALISTS (FIXATION OF RATES OF WAGES) ORDINANCE, 1958

No. 3 OF 1958

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

An Ordinance to provide for the fixation of rates of wages in respect of working journalists and for matters connected therewith.

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 Working Journalists Short com-(Fixation of Rates of Wages) Ordinance, 1958. mencement.
  - (2) It shall come into force at once,
  - 2. In this Ordinance, unless the context otherwise requires,-

Definitions.

- (a) "Committee" means the Committee constituted under
- (b) "prescribed" means prescribed by rules made under this Ordinance;

( 131 )

255 G. of I. Ex.—1.

- (c) "Wage Board" means the Wage Board constituted under the Working Journalists Act by notification No. SRO. 1075 of the Government of India in the Ministry of Labour, dated the 2nd May, 1956;
  - (d) "Wage Board decision" means the decisions of the Wage Board published in the Gazette of India Extraordinary, Part II, Section 3, dated the 11th May, 1957;
  - (e) "wages" means wages as defined in the Industrial Disputes Act, 1947;
  - (f) "Working Journalists Act" means the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955.

    45 of 1955.

Constitution of Committee.

- 3. (1) For the purpose of enabling the Central Government to fix rates of wages in respect of working journalists in the light of the Judgment of the Supreme Court, dated the 19th day of March, 1958, relating to the Wage Board decision, and in the light of all other relevant circumstances, the Central Government shall, as soon as may be after the commencement of this Ordinance, by notification in the Official Gazette, constitute a Committee consisting of the following persons, namely:—
  - (i) an officer of the Ministry of Law not below the rank of Joint Secretary, nominated by the Central Government, who shall be the Chairman of the Committee,
  - (ii) three persons nominated by the Central Government from among the officers of each of the Ministries of Home Affairs, Labour and Employment and Information and Broadcasting,
  - (iii) a chartered accountant nominated by the Central Government.
- (2) The Central Government may appoint a Secretary to the Committee for the performance of such functions as the Committee or the Chairman thereof may assign to him, and may also provide the Committee with such other staff as may be necessary.

Functions of Committee.

4. (1) The Committee shall, by notice published in such manner as it thinks fit, call upon newspaper establishments and working journalists and other persons interested in the Wage Board decision to make such representations as they may think fit as respects the Wage Board decision and the rates of wages which may be fixed under this Ordinance in respect of working journalists.

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EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

Repealed Day. Act 29 9/195.

No. 20] NEW DELHI, SATURDAY JUNE 14, 1958/JYAISTHA 24, 1880

### MINISTRY OF LAW

New Delhi, the 14th June, 1958/Jyaistha 24, 1880 (Saka)

THE WORKING JOURNALISTS (FIXATION OF RATES OF WAGES) ORDINANCE, 1958

No. 3 of 1958

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

An Ordinance to provide for the fixation of rates of wages in respect of working journalists and for matters connected therewith.

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 Working Journalists Short title (Fixation of Rates of Wages) Ordinance, 1958.
  - (2) It shall come into force at once.
  - 2. In this Ordinance, unless the context otherwise requires,—

Definitions.

- (a) "Committee" means the Committee constituted under section 3;
  - (b) "prescribed" means prescribed by rules made under this Ordinance;

( 131 )

255 G. of I. Ex.-1.

- (c) "Wage Board" means the Wage Board constituted under the Working Journalists Act by notification No. SRO. 1075 of the Government of India in the Ministry of Labour, dated the 2nd May, 1956;
  - (d) "Wage Board decision" means the decisions of the Wage Board published in the Gazette of India Extraordinary, Part II, Section 3, dated the 11th May, 1957;
  - (e) "wages" means wages as defined in the Industrial Disputes Act, 1947;
  - (f) "Working Journalists Act" means the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955.

    45 of 1955.

Constitution of Committee.

- 3. (1) For the purpose of enabling the Central Government to fix rates of wages in respect of working journalists in the light of the Judgment of the Supreme Court, dated the 19th day of March, 1958, relating to the Wage Board decision, and in the light of all other relevant circumstances, the Central Government shall, as soon as may be after the commencement of this Ordinance, by notification in the Official Gazette, constitute a Committee consisting of the following persons, namely:—
  - (i) an officer of the Ministry of Law not below the rank of Joint Secretary, nominated by the Central Government, who shall be the Chairman of the Committee,
  - (ii) three persons nominated by the Central Government from among the officers of each of the Ministries of Home Affairs, Labour and Employment and Information and Broadcasting,
  - (iii) a chartered accountant nominated by the Central Government.
- (2) The Central Government may appoint a Secretary to the Committee for the performance of such functions as the Committee or the Chairman thereof may assign to him, and may also provide the Committee with such other staff as may be necessary.

Functions of Committee.

4. (1) The Committee shall, by notice published in such manner as it thinks fit, call upon newspaper establishments and working journalists and other persons interested in the Wage Board decision to make such representations as they may think fit as respects the Wage Board decision and the rates of wages which may be fixed under this Ordinance in respect of working journalists.

- (2) Every such representation shall be in writing and shall be made within such period not exceeding thirty days, as the Committee may specify in the notice, and shall state—
  - (a) the specific grounds of objection, if any, to the Wage Board decision,
  - (b) the rates of wages which, in the opinion of the person making the representation, would be reasonable, having regard to the capacity of the employer to pay the same or to any other circumstance, whichever may seem relevant to the person making the representation in relation to his representation,
  - (c) the alterations or modifications, if any, which, in the opinion of the person making the representation, should be made in the Wage Board decision and the reasons therefor.
- (3) The Committee shall take into account the representations aforesaid, if any, and after examining the materials placed before the Wage Board and such further materials as have since been made available to it under this Ordinance, make such recommendations, as it thinks fit, to the Central Government for the fixation of rates of wages in respect of working journalists, whether by way of modification or otherwise, of the Wage Board decision, and any such recommendation may specify, whether prospectively or retrospectively, the date from which the rates of wages should take effect.
- (4) In making any recommendations to the Central Government, the Committee shall have regard to all the matters set out in subsection (1) of section 9 of the Working Journalists Act.
- (5) The Committee may, if it thinks fit, take up for consideration separately groups or classes of newspaper establishments, whether on the basis of regional classification or on any other basis, and make recommendations from time to time in regard to each such group or class.
- 5. (1) Subject to the provisions contained in sub-section (2), the Powers of Committee may exercise all or any of the powers which an industrial Committee tribunal, constituted under the Industrial Disputes Act, 1947, exercises for the purpose of adjudicating an industrial dispute referred to it and shall, subject to the provisions contained in this Act and the rules, if any, made thereunder, have power to regulate its own procedure.

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- (2) Any representations made to the Committee and any documents furnished to it by way of evidence, shall be open to inspection on payment of such fee as may be prescribed, by any person interested in the matter.
- (3) If in the course of any inquiry it appears to the Committee that it is necessary to examine any accounts or documents or obtain any statements from any person, the Committee may authorise any officer of the Central Government (hereinafter referred to as "the authorised officer") in that behalf; and the authorised officer shall, subject to the directions of the Committee, if any, examine the accounts or documents or obtain the statements from the person.
- (4) The authorised officer may, subject to the directions of the Committee, if any, exercise all or any of the powers which an industrial tribunal may exercise under sub-section (2) or sub-section (3) of section 11 of the Industrial Disputes Act, 1947.
- (5) The authorised officer shall be deemed to be a public servant 45 of a within the meaning of section 21 of the Indian Penal Code.

Power of Centrai to enforce tions of Committee.

- 6. (1) As soon as may be, after the receipt of the recommenda-Government tions of the Committee, the Central Government shall make recommenda- order in terms of the recommendations or subject to such modifications, if any, as it thinks fit, being modifications which in the opinion of the Central Government, do not effect important alterations in the character of the recommendations.
  - (2) Notwithstanding anything contained in sub-section (1), the Central Government may, if it thinks fit,—
    - (a) make such modifications in the recommendations not being modifications of the nature referred to in sub-section (1), as it thinks fit:

Provided that before making any such modifications, the Central Government shall cause notice to be given to all persons likely to be affected thereby in such manner as may be prescribed, and shall take into account any representations which they may make in this behalf in writing, or

(b) refer the recommendations or any part thereof to the Committee, in which case the Central Government shall consider its further recommendations and make an order either in terms of the recommendations or with such modifications as are referred to in sub-section (1).

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(3) Every order made by the Central Government published in the Official Gazette together with the recommendations of the Committee relating to the order, and the order shall come into operation on the date of publication or on such date, whether prospectively or retrospectively, as may be specified in the order.

7. Subject to the other provisions contained in section 10, the Order of order of the Central Government on its publication in the Official Central Government Gazette shall be binding on all employers and working journalists to be binding in relation to whom the order has been made; and every working concerned. journalist shall be entitled to claim wages at a rate which shall, in no case, be less than the rate of wages specified in the order.

8. The Central Government may, at any time after the expiry Review of of three years from the date of the order passed by it under this order of Central Ordinance, if it is of opinion that circumstances require that the Government rates of wages specified in the order should be revised, constitute a Wage Board as provided in section 8 of the Working Journalists Act, and where a Wage Board is so constituted, the provisions of the Working Journalists Act shall apply thereto.

9. Any money due to a working journalist under any order of Recovery of the Central Government made under this Ordinance, may be re- to working covered in the same manner as money due under the Working journalists. Journalists Act may be recovered under section 17 of that Act.

10. (1) Sections 8, 10, 11, 12 and 13 of the Working Journalists Effect Act shall have no effect in relation to the Committee.

of Ordinance Workover ing Journa-Act,

(2) The provisions of this Ordinance shall have effect notwith- lists standing anything inconsistent therewith in the terms of any award, etc. agreement or contract of service, whether made before or after the commencement of this Ordinance:

Provided that where under any such award, agreement, contract of service or otherwise, a working journalist is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Ordinance, the working journalist shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Ordinance.

(3) Nothing contained in this Ordinance shall be construed to preclude any working journalist from entering into any agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Ordinance. 255 G. of I. Ex.-2.

Vacancies, etc., not to invalidate proceedings of Committee. 11. No act or proceeding of the Committee shall be invalid merely by reason of the existence of any vacancy among its members or any defect in the constitution thereof.

Power to make rules.

- 12. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Ordinance.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—
  - (a) the manner in which notices under this Ordinance may be published;
  - (b) the procedure to be followed by the Committee in the exercise of its powers under this Ordinance;
  - (c) the fees to be paid for inspection of documents furnished to the Committee.

RAJENDRA PRASAD, President.

G. R. RAJAGOPAUL, Addl. Secy. to the Govt. of India. У

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EXTRAORDINARY

Repealed by. Act 34 9/958

PART II-Section 1

PUBLISHED BY AUTHORITY

NEW DELHI, SATURDAY, JUNE 14, 1958/JYAISTHA 24, 1880

#### MINISTRY OF LAW

New Delhi, the 14th June, 1958/Jyaistha 24, 1880 (Saka)

### THE BANARAS HINDU UNIVERSITY (AMENDMENT) ORDINANCE, 1958

No. 4 of 1958

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

further to amend the Banaras Hindu An Ordinance University Act, 1915.

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 Banaras Hindu University Short title (Amendment) Ordinance, 1958.

and commencement.

- (2) It shall come into force at once.
- 2. During the period of operation of this Ordinance, the Banaras Act 16 of Hindu University Act, 1915 (hereinafter referred to as the principal 1915 to be temporarily Act), and the Statutes thereunder shall have effect subject to the amended. amendments specified in this Ordinance.
- 3. For section 9 of the principal Act, the following section shall Substitution be substituted, namely:—

of new section for

"9. The Court shall be an advisory body and its functions section 9.

The Court. shall be—

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254 G. of I Ex.—1.

- (a) to advise the Visitor in respect of any matter which may be referred to it for advice;
- (b) to advise any authority of the University in respect of any matter which may be referred to the Court by such authority; and
- (c) to perform such other duties and exercise such other powers as may be assigned to it by the Visitor or under this Act.".

Insertion of new section 12A. **4.** After section 12 of the principal Act, the following section shall be inserted, namely:—

Proceedings of University authorities or bodies not to be invalidated by vacancies, etc. "12A. No act or proceeding of any authority or body of the University shall be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution thereof.".

Amendment. of section 17

- 5. In section 17 of the principal Act, for sub-sections (3), (4), (5), (6) and (7), the following sub-section shall be substituted, namely:—
  - "(3) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes; but every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the previous approval of the Visitor who may sanction, disallow or remit it for further consideration."

Amendment 6. In section 18 of the principal Act, for sub-sections (5), (6), (7) of section 18 and (8), the following sub-sections shall be substituted, namely:—

- "(5) Where the Executive Council has rejected the draft of an Ordinance proposed by the Academic Council, the Academic Council may appeal to the Visitor who may pass such order thereon as he thinks fit.
- (6) All Ordinances made by the Executive Council shall be submitted, as soon as may be, to the Visitor who may disallow any such Ordinance or remit it to the Executive Council for further consideration.
- (7) The Visitor may, by order, direct that the operation of any Ordinance shall be suspended until he has had an opportunity of exercising his power of disallowance, and any order of suspension under this sub-section shall cease to have effect on the expiration of one month from the date of such order."

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- 7. In section 19 of the principal Act, the proviso to sub-section (3) Amendment of section 19 shall be omitted.
- 8. The Statutes of the University shall have effect as if they had Amendment been amended as follows:—
  - (i) in Statute 12,—
    - (a) clause (2) shall be omitted;
  - (b) in clause (5)(a), the words "and the Court" shall be omitted;
  - (ii) for Statute 14, the following Statute shall be substituted, namely:—
    - "14. (1) The Court shall consist of the following The Court. members, namely:—
      - (a) the Chancellor, ex officio,
      - (b) the members of the Executive Council, ex officio,
      - (c) two representatives of the departments and Colleges of the University, nominated by the Visitor,
      - (d) two representatives of the teachers of the University other than Professors, nominated by the Visitor,
      - (e) five representatives of the old students of the University, nominated by the Visitor,
      - (f) three representatives of Parliament, two to be nominated by the Speaker of the House of the People from among the members thereof and one to be nominated by the Chairman of the Council of States from among the members thereof,
      - (g) twenty-nine persons nominated by the Visitor from among persons who have special knowledge or practical experience in education or have rendered eminent services in the cause of education or are men of standing in public life.
    - (2) Seventeen members of the Court shall form a quorum.";
    - (iii) Statute 16 shall be omitted;

(iv) for Statute 17, the following Statute shall be substituted, namely:—

The Executive Council.

- "17. (1) The Executive Council shall consist of the following members, namely:—
  - (a) the Vice-Chancellor, ex officio,
  - (b) seven persons nominated by the Visitor,
  - (c) one person nominated by the Chief Rector.
- (2) Five members of the Executive Council shall form a quorum.";
- (v) in Statute 18,—
- (a) in clause (1), the words "subject to the control of the Court" and the words "not otherwise provided for" shall be omitted;
- (b) in clause (2) (viii), the words "otherwise than by an act of the Court" shall be omitted;
- (vi) in Statute 20, in item (i), the words "the Court or" shall be omitted;
- (vii) in Statute 28, for the words "The Court, the Executive Council", the words "The Executive Council" shall be substituted;
- (viii) for Statute 29, the following Statute shall be substituted, namely:—

Selection Committee.

- "29. (1) There shall be a Selection Committee for making recommendations to the Executive Council in respect of appointments to the posts of Professor, Reader, Lecturer and Registrar, and the Selection Committee shall consist of such number of persons as the Executive Council may appoint.
- (2) The procedure to be followed by the Selection Committee in making recommendations shall be determined by the Executive Council.
- (3) If the Executive Council is unable to accept any recommendations made by the Committee, it shall record its reasons and submit the case to the Visitor for final orders.";

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(ix) for Statute 30, the following Statute shall be substituted, namely:—

"30. (1) There shall be a Screening Committee consist- Screening ing of the following persons, namely:-

Committee.

- (a) a person who is or has been a Judge of a High Court, nominated by the Central Government, who shall be the Chairman of the Committee,
  - (b) the Vice-Chancellor, ex officio,
- (c) a person nominated by the Central Government from among persons who have had administrative or other experience in educational matters.
- (2) The meetings of the Committee shall be convened by such person as may be appointed for this purpose by the Chairman.
- (3) It shall be the duty of the Screening Committee to examine the cases of all persons who at the commencement of the Banaras Hindu University (Amendment) Ordinance, 1958, are holding teaching, administrative or other posts in the University in respect of whom there is reason to believe that their continuance in office would be detrimental to the interests of the University, and to forward its recommendations to the Executive Council; and the Executive Council shall take such action thereon as it may think fit:

Provided that before taking any such action against the person concerned, the Executive Council shall give him a reasonable opportunity of being heard.".

9. (1) Every person holding office as a member of the Court or Transitional the Executive Council, as the case may be, immediately before the provisions. commencement of this Ordinance, shall on such commencement cease to hold office as such:

Provided that where any such person holds immediately before such commencement any other office in the University, nothing contained in this sub-section shall be construed to affect his continuance in such other office.

(2) Until the Court or the Executive Council is constituted in accordance with the provisions of clause (ii) or clause (iv), as the case may be, of section 8, the Visitor may, by general or special order, direct any officer of the University to exercise the powers and discharge the duties conferred or imposed by or under the principal <sup>254</sup> G. of I. Ex.—2.

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Act, as amended by this Ordinance, on the Court or the Executive Council, as the case may be.

RAJENDRA PRASAD,

President.

G. R. RAJAGOPAUL, Addl. Secy. to the Govt. of India.

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The Gazette



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**EXTRAORDINARY** PART II-Section I

Repealed by Act 30 of 1958

PUBLISHED BY AUTHORITY

NEW DELHI, FRIDAY, JUNE 27, 1958/ASADHA 6, 1880

#### MINISTRY OF LAW

New Delhi, the 27th June, 1958/Asadha 6, 1880 (Saka)

THE SUGAR EXPORT PROMOTION ORDINANCE, 1958

No. 5 of 1958

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

An Ordinance to provide for the export of sugar in the public interest and for the levy and collection in certain circumstances of an additional duty of excise on sugar produced in India.

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 Sugar Export Promotion Short title, Ordinance, 1958.

extent and commencement.

Definitions.

- (2) It extends to the whole of India.
- (3) It shall come into force at once.
- 2. In this Ordinance, unless the context otherwise requires,—

(a) "export" means taking out of India by sea, land or air;

- (b) "export agency" means any such agency as may be specified in this behalf under section 3, and when no such agency has been so specified, the Central Government;
- (c) "export quota" means the export quota referred to in section 5;
- (d) "factory" means any premises (including the precincts thereof) wherein sugar is being produced by the vacuum pan process;
  - (e) "ewner"-

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- (i) with reference to any factory the possession of which has been transferred by base, mortgage or otherwise, means the transferee so long as his right to possession subsists.
- (ii) with reference to any factory for which an agent, by whatever name called, is employed, means the agent if, and in so far as, he has been duly authorised by the owner in that behalf, and
- (iii) with reference to any factory the management of which has been taken over by any person or body of persons under the Industries (Development and Regulation) Act, 1951, means that person or body of persons;
- (f) "sugar" means any form of sugar containing more than ninety per cent. of sucrose;
- (g) "year" means the year beginning on the first day of May.

Export agency.

- 3. (1) For the purposes of this Ordinance, the Central Government may, by notification in the Official Gazette, specify as an export agency any company within the meaning of the Companies Act, 1956, or any body of persons established or recognised as a body 1 of 1950 corporate by or under any other law for the time being in force.
- (2) Where any such company or other body corporate has been specified as an export agency, it shall be lawful for such agency to perform all or any of the functions of an export agency under this Ordinance, notwithstanding anything to the contrary contained in the memorandum or articles of association of the company or, as the case may be, the law applicable thereto.

Fixation of quantity of sugar for purposes of export.

- 4. (1) The Central Government may, by notification in the Official Gazette, fix from time to time the quantity of sugar which may be exported during any period, and, in fixing such quantity, the Central Government shall have regard to—
  - (a) the quantity of sugar available in India,

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- (b) the quantity of sugar which, in its opinion, would be reasonably required for consumption in India,
- (c) the necessity for exporting sugar with a view to earning foreign exchange in the public interest.
- (2) The power conferred by sub-section (1) shall be so exercised as to ensure that the quantity fixed under that sub-section for any year does not exceed in the aggregate fifteen per cent. of the quantity of sugar produced in India in the season ending with the month of October falling within that year.

5. The Central Government shall, by order in writing, apportion Export the quantity of sugar fixed from time to time for purposes of export factories. under section 4 among the owners in proportion to the quantity of sugar produced, or likely to be produced, by them respectively during the season referred to in sub-section (2) of section 4, and such order shall be communicated to each of the owners, and the quantity so apportioned shall be deemed to be the export quota for the factory of that owner.

6. (1) Every owner shall, on demand by the export agency, Liability of deliver to it from time to time sugar produced in his factory in such owner to quantities (not exceeding in the aggregate his export quota fixed export for the factory or group of factories, as the case may be) of such quota export grade, in such manner, within such time and at such place, as may agency. be specified by the export agency in this behalf.

- (2) When sugar has been delivered by an owner in accordance with the provisions of sub-section (1), the owner shall retain no rights in respect of such sugar except his right to receive payment therefor under section 9.
- 7. (1) Where sugar delivered by any owner falls short of the Levy of export quota fixed for it by any quantity (hereinafter referred to as additional excise duty the said quantity), there shall be levied and collected on so much of on sugar. the sugar despatched from the factory for consumption in India as is equal to the said quantity, a duty of excise at the rate of seventeen rupees per maund.
- (2) The duty of excise referred to in sub-section (1) shall be in addition to the duty of excise chargeable on sugar under any other law for the time being in force, and shall be paid by the owner to such authority as may be specified in the notice demanding the payment of duty and within such period not exceeding ninety days as may be specified in such notice,

- (3) If any such owner does not pay the whole or any part of the duty payable by him within the period referred to in sub-section (2), he shall be liable to pay in respect of every period of thirty days or part thereof during which the default continues a penalty which may extend to ten per cent. of the duty outstanding from time to time, the penalty being adjudged in the same manner as the penalty to which a person is liable under the rules made under the Central Excises and Salt Act, 1944, is adjudged.
- (4) The provisions of the Central Excises and Salt Act, 1944, and the rules made thereunder, including those relating to refunds and exemptions from duty, shall, so far as may be, apply in relation to the levy and collection of the duty of excise or any other sum referred to in this section as they apply in relation to the levy and collection of the duty on sugar or other sums of money payable to the Central Government under that Act or the rules made thereunder.

Sale by export agency of sugar delivered. **8**. (1) The export agency shall take all practical measures to export sugar delivered to it under this Ordinance:

Provided that, if the export agency is of opinion that having regard to the quality of the sugar delivered to it by any owner, or to the expenses involved in transporting the sugar from one place to another, or to the delay likely to be involved in exporting it, or to the conditions prevailing in the markets for sugar, whether in or out of India, or to any other relevant circumstance, it is expedient so to do, the export agency may sell the whole or any part of the sugar in India and may, if it thinks fit, purchase such quantity of sugar as it may consider necessary for export at the appropriate time.

(2) For the purposes of sub-section (1), the export agency may itself sell sugar or permit the owner to sell the whole or any part of the export quota in his custody at a price approved by it on condition that the sale-proceeds are payable to it.

Payments to owners in respect of sugar delivered.

- 9. (1) The export agency shall, at such time as it thinks fit, make to the owners who have delivered sugar to it under this Ordinance, payments determined in accordance with the provisions hereinafter in this section contained.
- (2) From the total sale-proceeds in respect of the quantity fixed for export under section 4 for any year, there shall be deducted the total expenditure incurred by the export agency in respect of the sugar, whether by way of administrative expenses or otherwise, and the balance shall be apportioned among the owners in proportion to the quantity of sugar delivered by them respectively during that year.

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(3) In making any distribution under this section, the export agency shall make such adjustments as may be necessary having regard to the grade of sugar delivered by any owner, the adjustments being made on the basis of sugar of ISS-E-29 grade and with reference to the price differential schedule for different grades of sugar which the Central Government may, by notification in the Official Gazette, publish in this behalf.

- (4) Notwithstanding anything contained in this section and subject to the rules which may be made in this behalf, the export agency may make on account payments to owners against documents of delivery of sugar furnished by them, and such payments shall be adjusted at the time of final payment.
- 10. The export agency specified under section 3 shall be bound, Power of Central in the discharge of its functions under this Ordinance, by such general Government or special directions as the Central Government may give to it in to give directions. writing.
- 11. The Central Government may, by notification in the Official Delegation of Gazeite, direct, that any power conferred on it by this Ordinance powers. shall, subject to such conditions, if any, as may be specified in the notification, be exercisable also by such officer or authority subordinate to the Central Government as may be specified in the notification.
- 12. No suit, prosecution or other legal proceeding shall lie against Protection of the export agency or the Central Government or any of its officers action taken under Ordifor or in respect of anything which is in good faith done or intended nance. to be done in pursuance of this Ordinance or any rule or order made thereunder.
- 13. (1) The Central Government may, by notification in the Power to Official Gazette, make rules for carrying out the purposes of this make rules. Ordinance.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
  - (a) the submission by owners to such authority as may be specified in this behalf, of returns or reports or other information relating to the manufacture, sale, despatch, stocks and prices of sugar;

- (b) the manner in which the accounts of the export agency may be maintained and audited;
- (c) the inspection of records and registers of factories and the export agency;
  - (d) the making of payments by the export agency to owners;
- (e) any other matter which is to be or may be prescribed under this Ordinance.
- (3) In making a rule under this section, the Central Government may direct that a breach thereof shall be punishable with fine which may extend to five thousand rupees.

RAJENDRA PRASAD,

President.

G. R. RAJAGOPAUL, Addl. Secy. to the Govt. of India.

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### EXTRAORDINARY PART II—Section I PUBLISHED BY AUTHORITY

Repealed by Act 27 of 1958

No. 23]

NEW DELHI, MONDAY, JUNE 30, 1958/ASADHA 9, 1880

#### MINISTRY OF LAW

New Delhi, the 30th June, 1958/Asadha 9, 1880 (Saka)

### THE MINERAL OILS (ADDITIONAL DUTIES OF EXCISE AND CUSTOMS) ORDINANCE, 1958

No. 6 of 1958

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

An Ordinance to provide for the levy and collection of additional duties of excise and customs on certain mineral oils.

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 Mineral Oils (Additional Short title Duties of Excise and Customs) Ordinance, 1958.
  - mencement.
- (2) It shall be deemed to have come into force on the twentieth day of May, 1958.
- 2. In this Ordinance, "kerosene", "motor spirit", "refined diesel Definitions. oils and vaporizing oil" and "diesel oil, not otherwise specified" and "furnace oil" shall have the meanings respectively assigned to them In Items Nos. 1, 4, 24 and 25 of the First Schedule to the Central Excises and Salt Act, 1944.

Levy and collection of additional duties of excise on certain mineral oils.

3. (1) There shall be levied and collected in respect of the goods mentioned in column 1 of the Table hereunder duties of excise at such rates not exceeding those specified in relation thereto in column 2 of the said Table as may be specified by the Central Government by notification in the Official Gazette,—

#### TABLE

Description of goods	Rate of additional duty
I. Kerosene	Twelve naye paise per imperial gallon.
2. Motor spirit	Twenty-five naye paise per imperial gallon.
3. Refined diesel oils and vaporizing oil.	Fifteen naye paise per imperial gallon.
4. Diesel oil, not otherwise specified	Rupees twenty per ton.
5. Furnace oil	Rupees twenty per ton.

- (2) The duties of excise referred to in sub-section (1) in respect of the goods specified therein shall be in addition to the duties of excise chargeable on such goods under the Central Excises and Salt Act, 1944, or any other law for the time being in force.
- (3) The provisions of the Central Excises and Salt Act, 1944, and rotal the rules thereunder, including those relating to refunds and exemptions from duty, shall, so far as may be, apply in relation to the levy and collection of the additional duties of excise referred to in this section as they apply in relation to the levy and collection of the duties of excise in respect of the goods specified in sub-section (1).
- (4) Notwithstanding anything contained in this section, the Central Government may, having regard to the administrative or other difficulties, if any, which may arise in relation to the levy and collection of all or any of the additional duties of excise under this Ordinance for any period commencing on the 20th day of May, 1958, and ending on the 29th day of June, 1958, assess the additional duties of excise payable by any person under this Ordinance to be such sum as to the Central Government appears proper in the circumstances.

Amendment of Act 32 of 1634.

4. For so long as an additional duty of excise is levied and collected under this Ordinance in respect of kerosene, the entry in the fourth column relating to sub-item (a) of Item No. 27(4) of the First Schedule to the Indian Tariff Act, 1934, shall have effect 32 of 15

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as if the words, brackets and figures "plus the excise duty for the time being leviable under the Mineral Oils (Additional Duties of Excise and Customs) Ordinance, 1958, on like articles if produced or manufactured in India" had been added thereto.

5. Notwithstanding anything contained in section 64A of the Additional Indian Sale of Goods Act, 1930, or in any other law for the time duties of excise and being in force, or in any contract or agreement, no consumer customs not purchasing any of the goods referred to in sub-section (1) of section 3, to price of shall be liable to pay or be sued for, or in respect of,—

to be added

- (a) the whole or any part of the additional duties of excise leviable under this Ordinance, or
- (b) the whole or any part of the additional duties of customs leviable under section 4 or under the Indian Tariff Act, 1934, to the extent to which such duties have become leviable by reason of this Ordinance,

as part of the price payable by him in respect of the goods so purchased.

Explanation.—In this section, "consumer" shall not include any person in principal charge of the distribution in India of any of the goods referred to in sub-section (1) of section 3.

RAJENDRA PRASAD,

President.

G. R. RAJAGOPAUL. Addl. Secy. to the Govt. of India.

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## The Eazette



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# EXTRAORDINARY PART II—Section 1 PUBLISHED BY AUTHORITY

No. 38] NEW DELHI, TUESDAY, OCTOBER 21, 1958/ASVINA 29, 1880

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 21st October, 1958/Asvina 29, 1880 (Saka)

# THE HIMACHAL PRADESH LEGISLATIVE ASSEMBLY (CONSTITUTION AND PROCEEDINGS) VALIDATION ORDINANCE, 1958

No. 7 of 1958

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

An Ordinance to validate the constitution and proceedings of the Legislative Assembly of the new State of Himachal Pradesh formed under the Himachal Pradesh and Bilaspur (New State) Act, 1954.

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 Himachal Pradesh Legislative Assembly (Constitution and Proceedings) Validation Ordinance, 1958.

Short title and commencement.

- (2) It shall come into force at once.
- 2. In this Ordinance, "new Legislative Assembly" means the body of persons deemed under clause (a) of section 3 to have been the duly constituted Legislative Assembly of the new State of Himachal Pradesh.

Definition.

alidation f the constution and roceedings f the Legis ssembly of new nе tate Iimachal 'radesh.

332

- law or in any 3. Notwithstanding anything contained in any judgment, decree or order of any court,-
  - (a) the body of persons summoned to meet from time to time as the Himachal Pradesh Legislative Assembly (Himachal Pradesh Vidhan Sabha) during the period commencing on the 1st day of July, 1954, and ending with the 31st day of October, 1956, by the Lieutenant-Governor of Himachal Pradesh in the exercise or purported exercise of the powers conferred on him by section 9 of the Government of Part C States Act, 1951, shall be deemed 49 of 19 for all purposes to have been the duly constituted Legislative Assembly of the new State of Himachal Pradesh formed under section 3 of the Himachal Pradesh and Bilaspur (New State) Act, 1954;
  - (b) the persons who sat or voted or otherwise took part in the proceedings of the new Legislative Assembly shall be deemed to have been entitled so to do as members;
  - (c) the persons who functioned as the Speaker and the Deputy Speaker of the new Legislative Assembly shall be deemed to have been duly chosen as the Speaker and the Deputy Speaker respectively;

#### and accordingly-

- (i) any Bill passed by the new Legislative Assembly (whether the Bill was introduced in the new Legislative Assembly or was introduced in the Legislative Assembly of Himachal Pradesh functioning immediately before the 1st day of July, 1954) and assented to by the President shall be deemed to have been validly enacted and to have the force of law;
- (ii) any grant made, resolution passed or adopted, proceeding taken or any other thing done by or before the new Legislative Assembly shall be deemed to have been made, passed, adopted, taken or done in accordance with law.
- 4. No court shall question any Act passed, or any grant, resolution, proceeding or thing made, passed, adopted, taken or done, by or before the new Legislative Assembly merely on the ground that the new Legislative Assembly had not been duly constituted or on the ground that a person who was not entitled so to do presided over, sat or voted or otherwise took part in the proceedings of the new Legislative Assembly.

RAJENDRA PRASAD, President.

G. R. RAJAGOPAUL, Secy.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1958.

32 of 195

Court not to question validity of proceedings of new Legislative Assembly on the ground of defect in constitution. etc.

No.

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II of 1922.

Repealed by Mt 1 of 1959.

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EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

NEW DELHI, SATURDAY, JANUARY 17, 1959/PAUSA 27, 1880 No. 47]

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 17th January, 1959/Paus 27, 1880 (Saka)

INDIAN INCOME-TAX (AMENDMENT)

ORDINANCE, 1959

No. 1 of 1959

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

An Ordinance further to amend the Indian Income-tax Act, 1922.

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. This Ordinance may be called the Indian Income-tax (Amendment) Ordinance, 1959.

Short title.

Act II of 1922 to be

temporarily amended.

2. During the period of operation of this Ordinance, the Indian Income-tax Act, 1922 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 and 4.

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Amendment of section 34.

- 3. In section 34 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—
  - "(4) A notice under clause (a) of sub-section (1) may be issued at any time notwithstanding that at the time of the notice the period of eight years specified in that sub-section before its amendment by clause (a) of section 18 of the Finance Act, 1956,  $^{18}$  of  $^{1956}$  had expired in respect of the year to which the notice relates."

Insertion of new section 49EE.

4. After section 49E of the principal Act, the following section shall be inserted, namely:—

Power to set off in certain cases moneys in the possession of Government against tax found due under assessments, etc., thereafter to be made.

- "49EE. (1) Where in pursuance of any settlement relating to the assessment, re-assessment or case of any person made or purported to have been made before the commencement of the Indian Income-tax (Amendment) Ordinance, 1959, whether under this Act or otherwise, any sum of money or any security for the payment of any sum of money has been paid or furnished by him, whether on his own behalf or on behalf of any other person, no claim for the refund of any sum so paid or of the return of any security so furnished shall be entertained on the ground that the settlement is invalid in any of the following cases, namely:—
  - (a) in any case where a notice under section 34 in respect of the income, profits or gains relating to the settlement aforesaid has been issued before the commencement of the Indian Income-tax (Amendment) Ordinance, 1959; or
  - (b) in any other case, for a period of two years from such commencement;

and accordingly no application, suit or other legal proceeding shall lie for the refund of any such sum of money or the return of any such security—

- (i) pending the completion of the assessment, re-assessment or settlement in pursuance of the notice referred to in clause (a); or
- (ii) during the period of two years referred to in clause (b); or
- (iii) pending the completion of the assessment, reassessment or settlement in pursuance of any notice under section 34 which may be issued during the period of two years referred to in clause (b).

18 of 1

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b-section (3), the

ction (1) may be time of the notice section before its Finance Act, 1956, 18 of 19 ie notice relates.".

following section

lement relating to person made or mencement of the 59, whether under y security for the l or furnished by any other person, r of the return of ed on the ground e following cases,

der section 34 in iting to the settlecommencement of nance, 1959; or

f two years from

legal proceeding ney or the return

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(2) The Income-tax Officer, Appellate Assistant Commissioner or the Commissioner, as the case may be, may set off the amount referred to in sub-section (1) or the amount of the security referred to in that sub-section which may be realised for the purpose against the tax, interest, penalty or any other sum which may become payable by reason of any assessment, re-assessment or settlement made in pursuance of the notice referred to in clause (a) of that sub-section or in pursuance of any such notice which may be issued within the period of two years referred to in clause (b) of that sub-section.

(3) In computing the period of limitation prescribed for any legal proceeding in relation to any such sum or security aforesaid, the time during which any such proceeding cannot be instituted by reason of the provisions contained in sub-section (1) shall be excluded.".

5. No notice issued under clause (a) of sub-section (1) of section 34 Saving of of the principal Act at any time before the commencement of this notices, assessments, Ordinance and no assessment, re-assessment or settlement made or etc., in cerother proceeding taken in consequence of such notice shall be called tain cases. in question by any court, tribunal or other authority merely on the ground that at the time the notice was issued or at the time the assessment or re-assessment was made, the time within which such notice should have been issued or the assessment or re-assessment should have been made under that section as in force before its amendment by clause (a) of section 18 of the Finance Act, 1956, had expired.

RAJENDRA PRASAD,

Presid**e**nt.

G. R. RAJAGOPAUL, Secy.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1959



REGISTERED No. D. 221



## The Eazette



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#### EXTRAORDINARY PART II Section 1 PUBLISHED BY AUTHORITY

No. 20 ]

NEW DELHI, MONDAY, JULY 20, 1959/ASADHA 29, 1881

#### MINISTRY OF LAW

Legislative Department

New Delhi, the 20th July, 1959/Asadha 29, 1881 (Saka)

THE PUBLIC WAKFS (EXTENSION OF LIMITATION) ORDINANCE, 1959

#### No. 2 OF 1959

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

An Ordinance to extend the period of limitation in certain cases for suits to recover possession of immovable property forming part of public wakfs.

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 Public Wakfs (Extension Short title, of Limitation) Ordinance, 1959.

extent and commencement.

- (2) It extends to the whole of India except the State of Jammu and Kashmir.
  - (3) It shall come into force at once.

( 193 )

2. In this Ordinance, "public wakf" means the permanent dedica- Definite tion by a person professing Islam of any immovable property for any purpose recognised by Muslim Law as a public purpose of a pious, religious or charitable nature.

9 of 1908.

3. Where a person entitled to institute a suit of the description Extension referred to in article 142 or article 144 of the First Schedule to the of period of limit Indian Limitation Act, 1908, for possession of any immovable property tion in tain tain to for possessed, or has discontinued the possession, at any time after the possession, at any time after the recover possession of August, 1947, and before the 7th day of May, 1954, or, as the of immorphism able property for the possession of the defendant in such a suit has become adverse to such person at any time during the said period, in public then, notwithstanding anything contained in the said Act, the period wakfs. of limitation in respect of such a suit shall extend up to the 15th day of August, 1967.

RAJENDRA PRASAD,

President.

G. R. RAJAGOPAUL, Secy.

1 of 1944

Repealed by Act 58 of 1959; 5.5

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#### EXTRAORDINARY PART II—Section 1 PUBLISHED BY AUTHORITY

No. 39] NEW DELHI, SUNDAY, OCTOBER 25, 1959/KARTIKA 3, 1881

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 25th October, 1959/Kartika 3, 1881 (Saka)

THE SUGAR (SPECIAL EXCISE DUTY) ORDINANCE, 1959

No. 3 of 1959

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

An Ordinance to provide for the imposition of a special duty of excise on certain sugar.

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 Sugar (Special Excise Duty) Ordinance, 1959.

Short title and commencement.

Definitions.

- (2) It shall come into force at once.
- 2. In this Ordinance, unless the context otherwise requires,—
  - (a) "Central Excises Act" means the Central Excises and Salt Act, 1944;
- (b) "factory" means any premises, including the precincts thereof, wherein or in any part of which sugar is being manufactured, or, wherein or in any part of which, any manufacturing process connected with the production of sugar is being carried on or is ordinarily carried on, and includes any premises wherein sugar in respect of which the duty of excise payable under

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the Central Excises Act or the Additional Duties of Excise (Goods of Special Importance) Act, 1957, has not been paid, is 58 of 1957

- (c) "sugar" means any form of sugar, whether wholly or partially manufactured, but does not include—
  - (i) khandsari sugar, that is to say sugar in the manufacture of which neither a vacuum pan nor a vacuum evaporator is employed; or
  - (ii) palmyra sugar, that is to say sugar manufactured from jaggery obtained by boiling the juice of the palmyra palm.

mposition of special additional excise duty on certain sugar.

- 3. (1) There shall be levied and collected in respect of that quantity of sugar removed from any factory on or after the commencement of this Ordinance as is equivalent to the quantity of sugar lying in stock on such commencement within the precincts of the factory, 'a special duty of excise at the rate of rupees two and fifty-two naye paise per cwt.
- (2) The duty of excise referred to in sub-section (1) shall be in addition to the duties of excise chargeable on sugar under the Central Excises Act or any other law for the time being in force.
- (3) The provisions of the Central Excises Act and the rules thereunder, including those relating to refunds and exemptions from duty shall, so far as may be, apply in relation to the levy and collection of the special duty of excise referred to in sub-section (1) as they apply in relation to the levy and collection of the duties of excise on sugar under the Central Excises Act.

IEffect of Ievy of duty on certain transactions.

4. Where, in compliance with an order made with reference to clause (f) of sub-section (2) of section 3 of the Essential Commodities Act, 1955, a person is required to sell any sugar, the price of the sugar 10 of 1955 so required to be sold shall, if he has paid the special duty of excise leviable under section 3 on such sugar, include an amount equivalent to the duty so paid, and he shall be entitled to be paid such amount by the buyer.

RAJENDRA PRASAD,

President.

G. R. RAJAGOPAUL, Secy.

The Eazette



of Andia

# EXTRAORDINARY PART II—Section I PUBLISHED BY AUTHORITY

No. 19]

NEW DELHI, FRIDAY, JULY 8, 1960/ASADHA 17, 1882

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 8th July, 1960/Asadha 17, 1882 (Saka)

THE ESSENTIAL SERVICES MAINTENANCE ORDINANCE, 1960

No. 1 of 1960

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

An Ordinance to provide for the maintenance of certain essential services and the normal life of the community.

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 Essential Services Maintenance Ordinance, 1960.

Short title, extent and commencement.

(2) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Ordinance relate to Union employees.

(3) It shall come into force at once.

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Definitions.

#### 2. (1) In this Ordinance—

- (a) "essential service" means—
  - (i) any postal, telegraph or telephone service;
- (ii) any railway service or any other transport service for the carriage of passengers or goods by land, water or air;
- (iii) any service connected with the operation or maintenance of aerodromes, or with the operation, repair or maintenance of aircraft;

(iv) any service connected with the loading, unloading,

movement or storage of goods in any port;

- (v) any service connected with the clearance of goods or passengers through the customs or with the prevention of smuggling;
  - (vi) any service in any mint or security press;
- (vii) any service in any defence establishment of the Government of India;
- (viii) any service which the Central Government, being of opinion that strikes therein would prejudicially affect the maintenance of any public utility service or would result in the infliction of grave hardship on the community may, by notification in the Official Gazette, declare to be an essential service for the purposes of this Ordinance;
- (b) "strike" means the cessation of work by a body of persons employed in any essential service acting in combination or a concerted refusal or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment.
- (2) Every notification issued under sub-clause (viii) of clause (a) of sub-section (1) shall be laid before each House of Parliament as soon as may be after it is made, and shall cease to operate at the expiration of forty days from the re-assembly of Parliament 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-assemble on different dates, the period of forty days shall be reckoned from the later of those dates.

Power to prohibit strikes in certain employments. 3. (1) If the Central Government is satisfied that in the public interest it is necessary or expedient so to do, it may, by general or special order, prohibit strikes in any essential service specified in the Order.

- (2) An Order made under sub-section (1) shall be published in such manner as the Central Government considers best calculated to bring it to the notice of the persons affected by the Order.
- (3) An Order made under sub-section (1) shall be in force for six months only, but the Central Government may, by a like Order, extend it for any period not exceeding six months if it is satisfied that in the public interest it is necessary or expedient so to do.
  - (4) Upon the issue of an Order under sub-section (1),—
  - (a) no person employed in any essential service to which the Order relates shall go or remain on strike;
  - (b) any strike declared or commenced, whether before or after the issue of the Order, by persons employed in any such service shall be illegal.
- 4. Any person who commences a strike which is illegal under Penalty this Ordinance or goes or remains on, or otherwise takes part in, illegal strikes, any such strike shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.
- 5. Any person who instigates, or incites other persons to take Penalty for part in, or otherwise acts in furtherance of, a strike which is illegal etc. under this Ordinance shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.
- 6. Any person who knowingly expends or supplies any money Penalty for in furtherance or support of a strike which is illegal under this giving finant ordinance shall be punishable with imprisonment for a term which illegal may extend to one year, or with fine which may extend to one thousand rupees, or with both.
- 7. Notwithstanding anything contained in the Code of Criminal Power procedure, 1898, any police officer may arrest without warrant any out warrant person who is reasonably suspected of having committed any offence under this Ordinance.

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Ordinance to override other laws.

8. The provisions of this Ordinance and of any Order issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Industrial Disputes Act, 1947, or in any 14 of 1947, other law for the time being in force.

RAJENDŘA PRASAD,

President.

G. R. RAJAGOPAUL, Secy.

\* lef. by set 4 of 1961, 8.4 ( vef. 3.2.1961).



GOVERNMENT OF INDIA

LAW (MINISTRY OF .....)

## THE U. P. SUGARCANE CESS (VALIDATION) ORDINANCE, 1961

No. 1 of 1961

(Published in the Gazette of India, Extraordinary, Part II, Section 1. dated the 31st January, 1961)



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

An Ordinance to validate the imposition and collection of cesses on sugarcane under certain Acts of Uttar Pradesh.

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 U. P. Sugarcane Cess Short title and commencement.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
  - 2. In this Ordinance,—
  - (a) "cess" means the cess payable under any State Act and Definitions. includes any sum recoverable under any such Act by way of interest or penalty;
    - (b) "State Act" means any of the following Acts, namely:—
    - (i) The United Provinces Sugar Factories Control Act, 1938;
    - (ii) The U. P. Sugarcane (Regulation of Supply and Purchase) Act, 1953; and
      - (iii) The U. P. Sugarcane Cess Act, 1956.

Price Re. 0.15 nP. or 4 d.

3.7.1961; Vide Nost. No. 8.0 312 dt 2.2.1961. See Gay. of India

II P. Act I II 1938. II P. Act IX IV II 1933. II P. Act IX II II 1956.

Validation of imposition under State period.

- 3. (1) Notwithstanding any judgment, decree or order of any court, all cesses imposed, assessed or collected or purporting to have tion of cesses been imposed, assessed or collected under any State Act during the under State period beginning with the 26th day of January, 1950 and ending with certain the commencement of this Ordinance, shall be deemed to have been validly imposed, assessed or collected in accordance with law. as if the provisions of the State Acts and of all notifications, orders and rules issued or made thereunder, in so far as such provisions relate to the imposition, assessment and collection of such cess had been included in and formed part of this section and this section had been in force at all material times when such cess was imposed, assessed or collected; and accordingly,—
  - (a) no suit or other proceeding shall be maintained or continued in any court for the refund of any cess paid under any State Act;
  - (b) no court shall enforce a decree or order directing the refund of any cess paid under any State Act; and
  - (c) any cess imposed or assessed under any State Act before the commencement of this Ordinance but not collected before such commencement, may be recovered (after assessment of the cess, where necessary) in the manner provided under that Act.
  - (2) For the removal of doubts it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person,—
    - (a) from questioning in accordance with the provisions of any State Act and the rules made thereunder the assessment of any cess for any period, or
    - (b) from claiming refund of any cess paid by him in excess of the amount due from him under any State Act and the rules made thereunder.

RAJENDRA PRASAD, President. ix lef. by set 7 of 1961, 8.6 ( wif. 24. 3.61).

## THE BANKING COMPANIES (AMENDMENT) ORDINANCE, 1961

-x. No. 2 OF 1961

(Published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 4th February, 1961)



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

An Ordinance further to amend the Banking Companies Act, 1949.

WHEREAS Parliament is not in session and the President is satisfied that incumstances 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 Banking Companies Short title and commencement.

  (Amendment) Ordinance, 1961.
  - (2) It shall come into force at once.
- 2. During the period of operation of this Ordinance, the Banking Act 10 of Companies Act, 1949 (hereinafter referred to as the principal Act) 1949 to be temporarily shall have effect subject to the amendments specified in sections 3, 4, amended.

  5 and 6.
- 3. In section 35A of the principal Act, in clause (a) of sub-section Amendment (1), for the words "national interest", the words "public interest" of section shall be substituted.

Amendment 4. In section 44A of the principal Act, in sub-section (7), the words of section "in national interest" shall be omitted.

Am endment of section 45.

- 5. In section 45 of the principal Act,—
  - (a) in sub-section (1)—
  - (i) for the words "any agreement", the words "any agreement or other instrument" shall be substituted;
  - (ii) for the words "the banking company", the words "a banking company" shall be substituted;
- (b) for sub-sections (4) to (9), the following sub-sections shall be substituted, namely:—
  - "(4) During the period of moratorium, if the Reserve Bank is satisfied that—
    - (a) in the public interest; or
    - (b) in the interests of the depositors; or
    - (c) in order to secure the proper management of the banking company; or
    - (d) in the interests of the banking system of the country as a whole,—

it is necessary so to do, the Reserve Bank may prepare a scheme-

- (i) for the reconstruction of the banking company, or
- (ii) for the amalgamation of the banking company with any other banking institution (in this section referred to as "the transferee bank").
- (5) The scheme aforesaid may contain provisions for all or any of the following matters, namely:—
  - (a) the constitution, name and registered office, the capital, assets, powers, rights, interests, authorities and privileges, the liabilities, duties and obligations, of the banking company on its reconstruction or, as the case may be, of the transferee bank;
  - (b) in the case of amalgamation of the banking company, the transfer to the transferee bank of the business, properties, assets and liabilities of the banking company on such terms and conditions as may be specified in the scheme;

- (c) any change in the Board of directors, or the appointment of a new Board of directors, of the banking company on its reconstruction or, as the case may be, of the transferee bank and the authority by whom, the manner in which, and the other terms and conditions on which, such change or appointment shall be made and in the case of appointment of a new Board of directors or of any director, the period for which such appointment shall be made;
- (d) the alteration of the memorandum and articles of association of the banking company on its reconstruction or, as the case may be, of the transferee bank for the purpose of altering the capital thereof or for such other purposes as may be necessary to give effect to the reconstruction or amalgamation;
- (e) subject to the provisions of the scheme, the continuation by or against the banking company on its reconstruction or, as the case may be, the transferee bank, of any actions or proceedings pending against the banking company immediately before the date of the order of moratorium;
- (f) the reduction of the interest or rights which the members, depositors and other creditors have in or against the banking company before its reconstruction or amalgamation to such extent as the Reserve Bank considers necessary in the public interest or in the interests of the members, depositors and other creditors or for the maintenance of the business of the banking company;
- (g) the payment in cash or otherwise to depositors and other creditors in full satisfaction of their claim—
  - (i) in respect of their interest or rights in or against the banking company before its reconstruction or amalgamation; or
  - (ii) where their interest or rights aforesaid in or against the banking company has or have been reduced under clause (f), in respect of such interest or rights as so reduced;
- (h) the allotment to the members of the banking company for shares held by them therein before its reconstruction or amalgamation [whether their interest

in such shares has been reduced under clause (f) or not], of shares in the banking company on its reconstruction or, as the case may be, in the transferee bank and where any members claim payment in cash and not allotment of shares, or where it is not possible to allot shares to any members, the payment in cash to those members in full satisfaction of their claim-

- (i) in respect of their interest in shares in the banking company before its reconstruction or amalgamation; or
- (ii) where such interest has been reduced under clause (f), in respect of their interest in shares as so reduced;
- (i) the continuance of the services of all the employees of the banking company (excepting such of them who not being workmen within the meaning of the Industrial Disputes Act, 1947 are specifically 14 of 1947. mentioned in the scheme) in the banking company itself on its reconstruction or, as the case may be, in the transferee bank at the same remuneration and on the same terms and conditions of service, which they were getting or, as the case may be, by which they were being governed, immediately before the date of the order of moratorium:

Provided that the scheme shall contain a provision that-

- (i) the banking company shall pay or grant not later than the expiry of the period of three years from the date on which the scheme is sanctioned by the Central Government, to the said employees the same remuneration and the same terms and conditions of service as are applicable to employees of corresponding rank or status of a comparable banking company to be determined for this purpose by the Reserve Bank (whose determination in this respect shall be final);
- (ii) the transferee bank shall pay or grant not later than the expiry of the aforesaid period of three years, to the said employees the same remuneration and the same terms and conditions of service as are applicable to the other employees of corresponding

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Banking Companies (Amendment)

rank or status of the transferee bank subject to the qualifications and experience of the said employees being the same as or equivalent to those of such other employees of the transferee bank:

Provided further that if in any case under clause (ii) of the first proviso any doubt or difference arises as to whether the qualification and experience of any of the said employees are the same as or equivalent to the qualifications and experience of the other employees of corresponding rank or status of the transferee bank, the doubt or difference shall be referred to the Reserve Bank whose decision thereon shall be final.

- (i) notwithstanding anything contained in clause (i) where any of the employees of the banking company not being workmen within the meaning of the Industrial Disputes Act, 1947 are specifically mentioned in the scheme under clause (i), or where any employees of the banking company have by notice in writing given to the banking company or, as the case may be, the transferee bank at any time before the expiry of one month next following the date on which the scheme is sanctioned by the Central Government, intimated their intention of not becoming employees of the banking company on its reconstruction or, as the case may be, of the transferee bank, the payment to such employees of compensation, if any, to which they are entitled under the Industrial Disputes Act, 1947, and such pension, gratuity, provident fund and other retirement benefits ordinarily admissible to them under the rules or authorisations of the banking company immediately before the date of the order of moratorium;
- (k) any other terms and conditions for the reconstruction or amalgamation of the banking company;
- (l) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.
- (6) (a) A copy of the scheme prepared by the Reserve Bank shall be sent in draft to the banking company and also to the transferee bank and any other banking company

14 of 1947.

of 1947.

concerned in the amalgamation; for suggestions and objections, if any, within such period as the Reserve Bank may specify for this purpose;

- (b) the Reserve Bank may make such modifications, if any, in the draft scheme as it may consider necessary in the light of the suggestions and objections received from the banking company and also from the transferee bank, and any other banking company concerned in the amalgamation and from any members, depositors or other creditors of each of those companies and the transferee bank.
- (7) The scheme shall thereafter be placed before the Central Government for its sanction and the Central Government may sanction the scheme without any modifications or with such modifications as it may consider necessary; and the scheme as sanctioned by the Central Government shall come into force on such date as the Central Government may specify in this behalf:

Provided that different dates may be specified for different provisions of the scheme,

- (8) On and from the date of the coming into operation of the scheme or any provision thereof, the scheme or such provision shall be binding on the banking company or, as the case may be, on the transferee bank and any other banking company concerned in the amalgamation and also on all the members, depositors and other creditors and employees of each of those companies and of the transferee bank, and on any other person having any right or liability in relation to any of those companies or the transferee bank.
- (9) On and from such date as may be specified by the Central Government in this behalf, the properties and assets of the banking company shall, by virtue of and to the extent provided in the scheme, stand transferred to, and vest in, and the liabilities of the banking company shall, by virtue of and to the extent provided in the scheme, stand transferred to, and become the liabilities of, the transferee bank.
- (10) If any difficulty arises in giving effect to the provisions of the scheme, the Central Government may by order do anything not inconsistent with such provisions which appears to it necessary or expedient for the purpose of removing the difficulty.

- (11) Copies of the scheme or of any order made under sub-section (10) shall be laid before both Houses of Parliament, as soon as may be, after the scheme has been sanctioned by the Central Government, or, as the case may be, the order has been made.
- (12) Where the scheme is a scheme for amalgamation of the banking company, any business acquired by the transferee bank under the scheme or under any provision thereof shall, after the coming into operation of the scheme or such provision, be carried on by the transferee bank in accordance with the law governing the transferee bank, subject to such modifications in that law or such exemptions of the transferee bank from the operation of any provisions thereof as the Central Government on the recommendation of the Reserve Bank may, by notification in the Official Gazette, make for the purpose of giving full effect to the scheme:

Provided that no such modification or exemption shall be made so as to have effect for a period of more than seven years from the date of the acquisition of such business.

- (13) Nothing in this section shall be deemed to prevent the amalgamation with a banking institution by a single scheme of several banking companies in respect of each of which an order of moratorium has been made under this section.
- (14) The provisions of this section and of any scheme made under it shall have effect notwithstanding anything to the contrary contained in any other provisions of this Act or in any other law or any agreement, award or other instrument for the time-being in force.
- (15) In this section, "banking institution" means any banking company and includes the State Bank of India or any other banking institution notified by the Central Government under section 51.".

#### 6. In section 45L of the principal Act,—

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Amendment of section

(a) in sub-section (3), for the words "a scheme of recon- 45I struction of a banking company or its amalgamation with another banking company", the words "a scheme of reconstruction or amalgamation of a banking company" shall be substituted;

(b) in sub-section (4), for the words "a scheme of reconstruction of a banking company or its amalgamation with another banking company", the words "a scheme of reconstruction or amalgamation of a banking company" shall be substituted.

RAJENDRA PRASAD,

President.

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#### EXTRAORDINARY PART II-Section 1 PUBLISHED BY AUTHORITY

NEW DELHI, FRIDAY SEPTEMBER 29, 1961/ASVINA 7, 1883 No. 48

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 29th September, 1961/Asvina 7, 1883 (Saka)

(REGULATION OF PRODUCTION) THE SUGAR ORDINANCE, 1961

No.3 OF 1961

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

An Ordinance to provide for the regulation of production of sugar in the interests of the general public and for the levy and collection of a special excise duty on sugar produced by a factory in excess of the quota fixed for the purpose.

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 Sugar (Regulation Production) Ordinance, 1961.

of Short title, extent commence-

- (2) It extends to the whole of India except the State of Jammu and Kashmir.
  - (3) It shall come into force on the 1st day of November, 1961.
  - 2. In this Ordinance, unless the context otherwise requires,—

Definitions.

(a) "Central Excises Act" means the Central Excises and Salt Act, 1944;

of 1944.

( 571 )

- (b) "factory" means any premises (including the precincts thereof), wherein or in any part of which sugar is being manufactured by the vacuum pan process, or, wherein or in any part of which, any manufacturing process connected with the production of sugar by the vacuum pan process is being carried on or is ordinarily carried on;
- (c) "owner" shall have the meaning assigned to it in the Sugar Export Promotion Act, 1958;
- (d) "permissible quota" means the quota referred to in section 3;
  - (e) "prescribed" means prescribed by rules made under this Ordinance:
  - (f) "sugar" means any form of sugar, whether wholly or partially manufactured, but does not include—
    - (i) khandsari sugar, that is to say, sugar in the manufacture of which neither a vacuum pan nor a vacuum evaporator is employed; or
    - (ii) palmyra sugar, that is to say, sugar manufactured from jaggery obtained by boiling the juice of the palmyra palm;
  - (g) "year" means the year beginning on the first day of November and ending on the thirty-first day of October in the following year.
- Fixation of permissible quota.

  3. (1) The Central Government may, by order in writing fix from time to time, in accordance with the prescribed formula, the quantity of sugar which may be produced in a factory during any year.
  - (2) In prescribing the formula referred to in sub-section (1), the Central Government shall have regard to—
    - (a) the quantity of sugar available at the commencement of the year in the territories to which this Ordinance extends,
    - (b) the quantity of sugar which, in its opinion, would be reasonably required for consumption during the year in the territories to which this Ordinance extends,
      - (c) the quantity of sugar which, in its opinion, is likely to be required for export during the year,
      - (d) the working capacity of the factory during the relevant period,

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- (e) the number of days on which factory actually the worked during the relevant period,
- (f) the quantity of sugar produced expressed as percentage of the sugarcane crushed during the relevant period, and
  - (g) such other matters as may be prescribed.
- (3) The order referred to in sub-section (1) shall be communicated to the owner of each factory and the quantity fixed under the order for any year shall be deemed to be the permissible quota in respect of the factory for that year.
- 4. (1) Where the quantity of sugar produced in a factory during Levy any year exceeds the permissible quotafixed for it for that year, there special shall be levied and collected on the quantity of sugar which is pro-cise duty. duced in excess of the permissible quota a special duty of excise at the rate at which the duty of excise is chargeable on sugar under the Central Excises Act for the time being in force.

- (2) The special duty of excise referred to in sub-section (1) shall be in addition to the duty of excise chargeable on sugar under the Central Excises Act or any other law for the time being in force and shall be paid by the owner to such authority as may be specified in the notice demanding the payment of duty and within such period not exceeding ninety days as may be specified in such notice.
- (3) If any such owner does not pay the whole or any part of the duty payable by him within the period referred to in sub-section (2), he shall be liable to pay in respect of every period of thirty days or part thereof during which the default continues a penalty which may extend to ten per cent. of the duty outstanding from time to time, the penalty being adjudged in the same manner as the penalty to which a person is liable under the rules made under the Central Excises Act, is adjudged.
- (4) The provisions of the Central Excises Act and the rules made thereunder, including those relating to refunds and exemptions from duty shall, so far as may be, apply in relation to the levy and collection of the special duty of excise or any other sum referred to in this section as they apply in relation to the levy and collection of duty on sugar or other sums of money payable to the Central Government under that Act or the rules made thereunder:

Provided that no refund of the special excise duty or other sum shall be granted, if the whole or any part of the sugar in respect of which such duty or sum is payable under this section, is exported out of India.

**Delegation** of powers.

5. The Central Government may, by notification in the Official Gazette, direct that any power conferred on it by this Ordinance shall. subject to such conditions, if any, as may be specified in the notification, be exercisable also by such officer or authority subordinate to the Central Government as may be specified in the notification.

Protection of action taken nance.

6. No suit, prosecution or other legal proceeding shall lie against under Ordi- the Central Government or any of its officers for ordin respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rule or order made thereunder.

Power make rules.

- 7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Ordinance.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
  - (a) the formula for fixing the quota under section 3, and the relevant period referred to in clauses (d), (e) and (f), and the matters referred to in clause (g) of sub-section (2) of that section;
  - (b) the submission by owners to such authority as may be specified in this behalf, of returns or reports or other information relating to the manufacture and stocks of sugar;
  - (c) the manner in which the accounts of the factory in respect of the manufacture of sugar may be maintained;
    - (d) the inspection of records and registers of factories;
  - (e) any other matter which is to be or may be prescribed under this Ordinance.
- (3) In making a rule under this section, the Central Government may direct that a breach thereof shall be punishable with fine which may extend to five thousand rupees.

S. RADHAKRISHNAN,

Vice-President discharging the functions of the President.

> R. C. S. SARKAR, Secy. to the Govt. of India.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVT. OF INDIA PRESS. NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1961.

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# The Gazette of India

# EXTRAORDINARY PART II—Section 1 PUBLISHED BY AUTHORITY

No. 1] NEW DELHI, WEDNESDAY, JANUARY 24, 1962/MAGHA 4, 1883

MINISTRY OF LAW (Legislative Department)

New Delhi, the 24th January, 1962/Magha 4, 1883 (Saka)

THE ADVOCATES (AMENDMENT) ORDINANCE, 1962 No. 1 of 1962

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

An Ordinance to amend the Advocates Act, 1961.

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 Advocates (Amendment) Short title and commencement.
- (2) It shall come into force at once.

MARKET & SALE

- 2. During the period of operation of this Ordinance, the Advocates Act 25 of Act, 1961 shall have effect as if after section 57, the following sections 1961 to be temporarily had been inserted and had always been inserted, namely:—

  amended.
  - "58. (1) Where a State Bar Council has not been constituted Spetial prounder this Act or where a State Bar Council so constituted is visions durunable to perform its functions by reason of any order of a court sitional or otherwise, the functions of that Bar Council or of any period.

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Committee thereof, in so far as they relate to the admission and enrolment of advocates, shall be performed by the High Court in accordance with the provisions of this Act.

- (2) Until Chapter IV comes into force, a State Bar Council or a High Court performing the functions of a State Bar Council may enrol any person to be an advocate on a State roll, if he is qualified to be so enrolled under this Act, notwithstanding that no rules have been made under section 28 or that the rules so made have not been approved by the Bar Council of India, and every person so enrolled shall, until that Chapter comes into force, be entitled to all the rights of practice conferred on an advocate under section 14 of the Indian Bar Councils Act, 1926. 38 of 1926.
- (3) Notwithstanding anything contained in this Act, every person who, immediately before the 1st day of December, 1961, was an advocate on the roll of any High Court under the Indian Bar Councils Act, 1926 or who has been enrolled as an advocate 38 of 1926 under this Act shall, until Chapter IV comes into force, be entitled as of right to practise in the Supreme Court, subject to the rules made by the Supreme Court in this behalf.
- (4) Notwithstanding the repeal by sub-section (2) of section 50 of the provisions of the Legal Practitioners Act, 1879 or of 18 of 1879. Bombay Act the Bombay Pleaders Act, 1920, relating to the admission and XVII of enrolment of legal practitioners, the provisions of those Acts and any rules made thereunder in so far as they relate to the issue and renewal of the certificate of a legal practitioner shall have effect until Chapter IV comes into force and, accordingly, every certificate issued or renewed to a legal practitioner (who is not enrolled as an advocate under this Act) which is or purports to be issued or renewed under the provisions of either of the aforesaid Acts during the period beginning with the 1st day of December, 1961 and ending with the date on which Chapter IV comes into force, shall be deemed to have been validly issued or renewed.

Removal of difficulties.

59. (1) If any difficulty arises in giving effect to the provisions of this Act, particularly in relation to the transition from the enactments repealed by this Act to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

(2) An order under sub-section (1) may be made so as to have retrospective effect from a date not earlier than the 1st day of December, 1961.".

RAJENDRA PRASAD, *President*.

R. C. S. SARKAR, Secy. to the Govt. of India.

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# EXTRAORDINARY PART II—Section 1 PUBLISHED BY AUTHORITY

No. 4] NEW DELHI, MONDAY, MARCH 5, 1962/PHALGUNA 14, 1883

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 5th March, 1962/Phalguna 14, 1883 (Saka)

THE GOA, DAMAN AND DIU (ADMINISTRATION)
ORDINANCE, 1962

No. 2 of 1962

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

An Ordinance to provide for the administration of the Union territory of Goa, Daman and Diu and for matters connected therewith.

Whereas the territories comprised in Goa, Daman and Diu have been acquired with effect from the twentieth day of December, 1961, and have, by virtue of sub-clause (c) of clause (3) of article 1 of the Constitution, been comprised within the territory of India;

And whereas it is expedient to make provision for the administration of the said territories;

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 Goa, Daman and Diu Short title and commencement.

  (Administration) Ordinance, 1962.
  - (2) It shall come into force at once.

Definitions.

- 2. In this Ordinance, unless the context otherwise requires.—
  - (a) "Administrator" means the Administrator of Goa, Daman and Diu;
  - (b) "appointed day" means the twentieth day of December. 1961:
  - (c) "Goa, Daman and Diu" means the Union territory of Goa, Daman and Diu.

Officers and functionaries

3. Without prejudice to the powers of the Central Government to in relation to appoint from time to time such officers and authorities as may be Goa, Daman necessary for the administration of Goa, Daman and Diu, all judges, and Diu. magistrates and other officers and authorities who, immediately before the commencement of this Ordinance, were exercising lawful functions in connection with the administration of Goa, Daman and Diu or any part thereof shall, unless otherwise directed at any time by the Central Government in relation to any such judge, magistrate or other officer or authority, or until other provision is made by law. continue to exercise in connection with such administration their respective functions in the same manner and to the same extent as before such commencement with such altered designation, if any, as that Government may determine.

Continuance of existing laws their adaptation.

- **4.** (1) All laws in force immediately before the appointed day in and Goa, Daman and Diu or any part thereof shall continue to be in force therein until amended or repealed by a competent Legislature or other competent authority.
  - (2) For the purpose of facilitating the application of any such law in relation to the administration of Goa, Daman and Diu as a Union territory and for the purpose of bringing the provisions of any such law into accord with the provisions of the Constitution, the Central Government may within two years from the appointed day, by order, make such adaptations and modifications, whether by way of repeal or amendment, as may be necessary or expedient and thereupon every such law shall have effect subject to the adaptations and modifications so made.

Power extend actments to Goa. Daman and Diu.

5. The Central Government may, by notification in the Official Gazette, extend with such restrictions or modifications as it thinks fit, to Goa, Daman and Diu any enactment which is in force in a State at the date of the notification.

Power to qonstrue [ laws,

6. For the purpose of facilitating the application of any law in relation to Goa, Daman and Diu, any court or other authority may construe any such law in such manner not affecting the substance, as may be necessary or proper to adapt it to the matter before the court or other authority.

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7. (1) All things done and all action taken (including any acts Validation of certain acof executive authority, proceedings, decrees and sentences) in or tion with respect to Goa, Daman and Diu, on or after the appointed day officers and before the commencement of this Ordinance, by the Adminis- certain acts. trator or any other officer of Government, whether civil or military, or by any other person acting under the orders of the Administrator or such officer, which have been done or taken in good faith and in a reasonable belief that they were necessary for the peace and good government of Goa, Daman and Diu, shall be as valid and operative as if they had been done or taken in accordance with law.

(2) No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie in any court of law against the Administrator or any other officer of Government, whether civil or military, or against any other person acting under the orders of the Administrator or such other officer for, or on account of, or in respect of, anything done or any action taken in Goa, Daman and Diu or any part thereof on or after the appointed day and before the commencement of this Ordinance, which has been done or taken in good faith and in a reasonable belief that it was necessary for the peace and good government of Goa, Daman and Diu:

Provided that if any such suit or other legal proceeding has been instituted before the commencement of this Ordinance, it shall, on such commencement, abate.

8. (1) If any difficulty arises in giving effect to the provisions of remove diffithis Ordinance or in connection with the administration of Goa, culties. Daman and Diu, the Central Government may, by order, make such further provision as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such power shall be exercised after the expiry of two years from the appointed day.

(2) Any order under sub-section (1) may be made so as to be retrospective to any date not earlier than the appointed day.

RAJENDRA PRASAD,

President.

R. C. S. SARKAR, Secy. to the Govt. of India.

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# EXTRAORDINARY PART II—Section 1 PUBLISHED BY AUTHORITY

No. 32]

NEW DELHI, 20, JULY, 1962/ASADHA 29, 1884

### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 20th July, 1962/Asadha 29, 1884 (Saka)

# THE LAND ACQUISITION (AMENDMENT) ORDINANCE, 1962

No. 3 OF 1962

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

An Ordinance further to amend the Land Acquisition Act, 1894, and to validate certain acquisitions under that Act.

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 Land Acquisition Short title (Amendment) Ordinance, 1962.

  (2) It shall come into force at once
  - (2) It shall come into force at once.
- 2. During the period of operation of this Ordinance, the Land Act 1 of 1894 Acquisition Act, 1894 (hereinafter referred to as the principal Act) to be temposhall have effect subject to the amendments specified in sections 3 ed. and 4.
- 3. In sub-section (1) of section 40 of the principal Act, after Amendment clause (a), the following clause shall be inserted, namely:—
  - "(aa) that such acquisition is needed for the construction of some building or work for a Company engaged or to be engaged

in an industry which is essential to the life of the community or is likely to promote the economic development of the country; or".

Amendment of section 41.

- 4. In section 41 of the principal Act,—
  - (a) for the words "the purpose of the proposed acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith, or that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public", the words, brackets, letters and figures "the proposed acquisition is for any of the purposes referred to in clause (a) or clause (aa) or clause (b) of subsection (1) of section 40" shall be substituted;
  - (b) in clause (4), the word "and" occurring at the end shall be omitted, and after that clause, the following clause shall be inserted, namely:—
    - "(4A) where the acquisition is for the construction of any building or work for a Company engaged or to be engaged in an industry which is essential to the life of the community or is likely to promote the economic development of the country, the time within which, and the conditions on which, the building or work shall be constructed or executed; and".

Validation of certain acquisitions.

5. Notwithstanding any judgment, decree or order of any court, every acquisition of land for a Company made or purporting to have been made under Part VII of the principal Act before the commencement of this Ordinance shall, in so far as such acquisition is not for any of the purposes mentioned in clause (a) or clause (b) of subsection (1) of section 40 of the principal Act, be deemed to have been made for the purpose mentioned in clause (aa) of the said sub-section, and accordingly every such acquisition and any proceeding, order, agreement or action in connection with such acquisition shall be, and shall be deemed always to have been, as valid as if the provisions of sections 40 and 41 of the principal Act, as amended by this Ordinance, were in force at all material times when such acquisition was made or proceeding was held or order was made or agreement was entered into or action was taken.

S. RADHAKRISHNAN,

President

R. C. S. SARKAR, Secy. to the Govt. of India

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### EXTRAORDINARY

# PART II—SECTION I PUBLISHED BY AUTHORITY

No. 46]

NEW DELHI, FRIDAY, OCTOBER 26, 1962/KARTIKA 4, 1884

### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 26th October, 1962/Kartika 4, 1884 (Saka)

### THE DEFENCE OF INDIA ORDINANCE, 1962

No. 4 of 1962

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

An Ordinance to provide for special measures to ensure the public safety and interest, the defence of India and civil defence and for the trial of certain offences.

WHEREAS the President has declared by Proclamation under clause (1) of article 352 of the Constitution that a grave emergency exists whereby the security of India is threatened by external aggression;

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

1. (1) This Ordinance may be called the Defence of India Short Ordinance, 1962.

snort title, extent, application commencement and savings.

- (2) It extends to the whole of India and it applies also-
  - (a) to citizens of India outside India;
- (b) to persons in the services of the Government, wherever they may be;
- (c) in respect of the regulation and discipline of the naval, military and air force or any other armed forces of the Union, to members of, and persons attached to, employed with, or following, those forces, wherever they may be;
- (d) to, and to persons on, ships and aircraft registered in India, wherever they may be.
- (3) This section shall come into force at once and the remaining provisions of this Ordinance shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions and different areas.
  - (4) The cesser of operation of this Ordinance shall not affect—
  - (a) the previous operation of, or any thing duly done or suffered under, this Ordinance or any rule made thereunder or any order made under any such rule, or
  - (b) any right, privilege, obligation or liability acquired, accrued or incurred under this Ordinance or any rule made thereunder or any order made under any such rule, or
  - (c) any penalty, forfeiture or punishment incurred in respect of any offence under this Ordinance or any contravention of any rule made under this Ordinance or of any order made under any such rule, or
  - (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Ordinance had not ceased to operate.

### Definitions.

- 2. In this Ordinance, unless the context otherwise requires,—
- (a) 'civil defence' includes any measures not amounting to actual combat, for affording defence against any form of hostile attack by a foreign power or for depriving any form of hostile attack by a foreign power of its effect either wholly or in part, whether such measures are taken before, during or after the time of the attack;
- (b) 'Civil Defence Services' means the services formed wholly or mainly to meet the needs of civil defence;
- (c) 'prescribed' means prescribed by rules made under this Ordinance;
- (d) 'Proclamation of Emergency' means a Proclamation issued under clause (1) of article 352 of the Constitution;
- (e) 'State Government' in relation to a Union territory means the administrator thereof.

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#### CHAPTER II

### EMERGENCY POWERS

- 3. (1) The Central Government may, by notification in the Power to Official Gazette, make such rules as appear to it necessary or expedient for securing the defence of India and civil defence, the public safety, the maintenance of public order or the efficient conduct of military operations, or for maintaining supplies and services essential to the life of the community.
- (2) Without prejudice to the generality of the powers conferred by sub-section (1), the rules may provide for, and may empower any authority to make orders providing for, all or any of the following matters, namely:—
  - (1) ensuring the safety and welfare of the Armed Forces of the Union. ships and aircrafts, and preventing the prosecution of any work likely to prejudice the operations of the Armed Forces of the Union;
  - (2) prohibiting anything likely to prejudice the training, discipline or health of the Armed Forces of the Union;
  - (3) preventing any attempt to tamper with the loyalty of persons in, or to dissuade (otherwise than with advice given in good faith to the person dissuaded for his benefit or that of any member of his family or any of his dependents) persons from entering the service of the Government;
  - (4) preventing or prohibiting anything likely to assist the enemy or to prejudice the successful conduct of military operations or civil defence including—
    - (a) communications with the enemy or agents of the enemy;
    - (b) acquisition, possession without lawful authority or excuse and publication of information likely to assist the enemy;
    - (c) contribution to, participation or assistance in, the floating of loans raised by or on behalf of the enemy;
    - (d) advance of money to, or contracts or commercial dealings with the enemy, enemy subjects or persons residing, carrying on business, or being, in enemy territory; and
    - (e) acts, publications or communications prejudicial to civil defence;
  - (5) preventing the spreading without lawful authority or excuse of false reports or the prosecution of any purpose likely to cause disaffection or alarm, or to prejudice India's relations with foreign powers or to prejudice maintenance of peaceful conditions in all areas including the tribal areas, or to promote feelings of ill-will, enmity or hatred between different classes of the people of India;
    - (6) requiring the publication of news and information;

- (7) regulating the conduct of persons in respect of areas the control of which is considered necessary or expedient, and the removal of persons from such areas;
- (8) requiring any person or class of persons to comply with any scheme of defence or civil defence;
  - (9) ensuring the safety of—
  - (a) ports, dockyards, lighthouses, light-ships and aerodromes;
  - (b) railways, tramways, roads, canals and all other means of transport by land or water;
  - (c) telegraphs, post offices, signalling apparatus and all other means of communication;
  - (d) sources and systems of water-supply, works for the supply of water, gas or electricity, and all other works for public purposes;
  - (e) vessels, aircraft, transport vehicles as defined in the Motor Vehicles Act, 1939, and rolling stocks of railways and 4 of tramways;
  - (f) warehouses and all other places used or intended to be used for storage purposes;
  - (g) mines, oil-fields, factories or industrial or commercial undertakings generally, or any mine, oil-field, factory or industrial or commercial undertaking in particular;
  - (h) laboratories and institutions where scientific research is conducted;
  - (i) all works and structures being part of, or connected with, anything earlier mentioned in this clause; and
  - (j) any other place or thing used or intended to be used for the purposes of Government or a local authority, the protection of which is considered necessary or expedient for securing the defence of India and civil defence, the public order, or the efficient conduct of military operations, or for maintaining supplies and services essential to the life of the community;
- (10) the demolition, destruction or rendering useless in case of necessity of any building or other premises or any other property;
- (11) prohibiting or regulating traffic, and the use of vessels, buoys, lights and signals, in ports and territorial, tidal and inland waters:
  - (12) the control of lights and sounds;
- (13) the control of persons entering, travelling in or departing from, India;
  - (14) restricting and regulating the charter of foreign vessels;

- (15) regulating the structure and equipment of vessels, for the purpose of ensuring the safety thereof and of persons therein;
- (16) regulating work in dockyards and shipyards in respect of the construction and repairs of vessels;
- (17) prohibiting or regulating the sailings of vessels from ports, traffic at aerodromes and the movement of aircraft, and traffic on railways, tramways and roads, and reserving and requiring to be adapted, for the use of the Central Government, all or any accommodation in vessels, aircraft, railways, tramways or road vehicles for the carriage of persons, animals or goods;
- (18) the impressment of vessels, aircraft, vehicles, and animals for transport;
- (19) prohibiting or regulating the use of postal telegraphic or telephonic services, including the taking possession of such services, and the delaying, seizing, intercepting or interrupting of postal articles or telegraphic or telephonic messages;
- (20) regulating the delivery otherwise than by postal or telegraphic service of postal articles and telegrams;
- (21) the control of trade or industry for the purpose of regulating or increasing the supply of, and the obtaining of information with regard to articles or things of any description whatsoever which may be used in connection with the conduct of military operations or civil defence or for maintaining supplies and services essential to the life of the community:
- (22) the control of agriculture (including the cultivation of agricultural land and crops to be raised therein) for the purpose of increasing the production and supply of foodgrains and other essential agricultural products;
- (23) the provision, storage and maintenance of commodities and things required for the conduct of military operations or for civil defence;
- (24) the provision, construction, maintenance or alteration of buildings, premises or other structures or excavations required for the conduct of military operations or civil defence;
- (25) the protection of property by the performance of such fire prevention and other duties as may be allotted to any person;
- (26) the securing of any building, premises or other structures from being readily recognisable in the event of a hostile attack by a foreign power;
- (27) ensuring the ownership and control of mines and oil-fields by the citizens;
- (28) controlling the possession, use or disposal of, or dealing in, coin, bullion, bank notes, currency notes, securities or foreign exchange;
- (29) the control of any road or pathway, waterway, ferry or bridge, river, canal or other source of water-supply;

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- (30) the requisitioning and acquisition of any movable property; and the principles on which and the manner in which compensation shall be determined and given in respect of such requisitioning or acquisition;
- (31) prohibiting or regulating the possession, use or disposal of—
  - (a) explosives, inflammable substances, corrosive and other dangerous substances or articles, arms and ammunitions of war;
    - (b) vessels;
    - (c) wireless telegraphic apparatus;
    - (d) aircraft, and
  - (e) photographic and signalling apparatus and any means of recording information;
- (32) prohibiting or regulating the bringing into, or taking out of, India and the possession, use or transmission of ciphers and other secret means of communicating information;
- (33) prohibiting or regulating the publication of inventions and designs;
- (34) prohibiting or regulating the publication of results of research work having a bearing on efforts relating to defence of India or military operations;
  - (35) preventing the disclosure of official secrets:
- (36) prohibiting or regulating meetings, assemblies, fairs and processions;
- (37) preventing or controlling any use of uniforms, whether official or otherwise, flags, official decorations like medals, badges and other insignia and anything similar thereto, where such use is calculated to deceive or to prejudice the public safety, the maintenance of public order, the defence of India or civil defence;
- (38) ensuring the accuracy of any report or declaration legally required of any person;
  - (39) preventing the unauthorised change of names;
- (40) preventing anything likely to cause misapprehension in respect of the identity of any official person, official document or official property or in respect of the identity of any person, document or property purporting to be, or resembling, an official person, official document or official property;
- (41) the precautionary measures which the Government or any department thereof or any local authority, members of police forces and fire brigades and members of any other service or authority employed primarily for purposes other than civil defence purposes should be required to take within their respective jurisdictions or with respect to any personnel employed by them;

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- (42) the seizure and custody or destruction of injured, unclaimed or dangerous animals;
- (43) the salvage of damaged buildings and property and disposal of the dead;
- (44) the evacuation of areas and the removal of property or animals therefrom;
- (45) the accommodation in any area of persons evacuated from another area and the regulation of the conduct of evacuated persons accommodated in such area;
- (46) the billeting of evacuated persons or persons authorised to exercise functions under this Ordinance;
- (47) the instructions of members of the public in civil defence and their equipment for purposes of civil defence;
- (48) the entry into, and search of, any place reasonably suspected of being used for any purpose prejudicial to the public safety or interest, to the defence of India or civil defence or to the efficient conduct of military operations, and for the seizure and disposal of anything found there and reasonably suspected of being used for such purpose.
- (3) The rules made under sub-section (1) may further—
  - (i) provide for the arrest and trial of persons contravening any of the rules or any order issued thereunder;
- (ii) provide that any contravention of, or any attempt to contravene, or any abetment of, or any attempt to abet, the contravention of any of the provisions of the rules or any order issued under any such provision, shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both;
- (iii) provide for the seizure, detention and forfeiture of any property in respect of which such contravention, attempt or abetment as is referred to in clause (ii) has been committed and for the adjudication of such forfeiture whether by a court or by any other authority;
  - (iv) confer powers and impose duties—
  - (a) upon the Central Government or officers and authorities of the Central Government as respects any matter, notwithstanding that the matter is one in respect of which the State Legislature has power to make laws; and
  - (b) upon any State Government or officers and authorities of any State Government as respects any matter, notwithstanding that the matter is one in respect of which the State Legislature has no power to make laws;
- (v) prescribe the duties and powers of public servants and other persons as regards preventing the contravention of, or securing the observance of, the rules or any order made thereunder:

- (vi) provide for preventing obstruction and deception of, and disobedience to, any person acting, and interference with any notice issued, in pursuance of the rules or any order made thereunder;
- (vii) prohibit attempts by any person to screen from punishment any one, other than the husband or wife of such person, contravening any of the rules or any order made thereunder;
- (viii) empower or direct any authority to take such action as may be specified in the rules or as may be necessary to such authority for the purpose of ensuring the public safety or interest or the defence of India or civil defence;
- (ix) provide for charging fees in respect of the grant or issue of a licence, permit, certificate or other document for the purposes of the rules.

Special powers to control civilian personnel employed in connection with the Armed Forces of the Union.

4. The Central Government may, by notification in the Official Gazette, direct by general or special order that any persons who not being members of the Armed Forces of the Union are attached to, or employed with, or following those Forces, shall be subject to naval, military or air force law, and thereupon such persons shall be subject to discipline and liable to punishment for offences under the Navy Act, 1957, the Army Act, 1950 and the Air Force Act, 62 of 1957, 1950, as the case may be, as if they were included in such class of 46 of 1950 persons subject to any of those Acts as may be specified in the 45 of 1950 notification.

Enhanced penalties.

5. (1) If any person with intent to wage war against India or to assist any country committing external aggression against India, contravenes any provision of the rules made under section 3 or any order issued under any such rule, he shall be punishable with death or imprisonment for life, or imprisonment for a term which may extend to ten years and shall also be liable to fine.

### (2) If any person,—

- (a) contravenes any such provision of or any such rule or order made under the Indian Aircraft Act, 1934 as may be notified 22 of 1934 in this behalf by the Central Government, or
- (b) in any area notified in this behalf by a State Government, contravenes any such provision of, or any such rule made under, the Arms Act, 1959, the Indian Explosives Act, 1884 or 54 of 1959, the Explosives Substances Act, 1908, as may be notified in this 4 of 1884, behalf by the State Government,

he shall, notwithstanding anything contained in any of the aforesaid Acts or rules made thereunder, be punishable with imprisonment for a term which may extend to five years, or, if his intention is to assist any country committing external aggression against India, or, to wage war against India, with death, imprisonment for life or imprisonment for a term which may extend to ten years and shall in either case also be liable to fine.

(3) For the purposes of this section, any person who attempts to contravene, or abets or attempts to abet, or does any act preparatory to, a contravention of any provision of any law, rule or order shall be deemed to have contravened that provision.

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6. During the continuance of this Ordinance,—

Temporary amend-ments to

(1) the Indian Official Secrets Act, 1923 shall have effect Acts. as if—

- (a) in sub-section (1) of section 5 thereof, after the words 'in his possession or control', the words 'any information likely to assist the enemy, or' had been inserted;
- (b) for sub-section (4) of section 5 thereof, the following sub-section had been substituted, namely:—
  - "(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to five years, or if such offence is committed with intent to assist any country committing external aggression against India or to wage war against India, with death or imprisonment for life or imprisonment for a term which may extend to ten years and shall in either case also be liable to fine.";
- (c) after clause (a) of section 12 thereof, the following clause had been inserted, namely:—
  - "(aa) an offence under section 5 shall be a cognizable and non-bailable offence;";
- (2) the Indian Aircraft Act, 1934 shall have effect as if-
- (a) at the end of clause (r) of sub-section (2) of section 5, the following words had been inserted, namely:—

"including the taking of steps necessary to secure compliance with, or to prevent contravention of, the rule regulating such matters, or, where any such rule has been contravened, to rectify, or to enable proceedings to be taken in respect of, such contravention.";

- (b) in clause (b) of sub-section (1) of section 8, for the words, brackets and figures "clause (h) or clause (i) of subsection (2) of section 5", the words, brackets, figures and letters 'clauses (d), (e), (h), (i), (k) or (l) of sub-section (2) of section 5, or the commission of an offence punishable under section 11,' had been substituted;
- (c) in section 11, after the words 'in the air', the words 'or in such a manner as to interfere with any of the Armed Forces of the Union or any ships or aircraft' had been inserted;
- (d) in section 13, for the words, brackets, figures and letters "clause (i) or clause (l) of sub-section (2) of section 5", the words, brackets, figures and letters "clauses (c), (d), (e), (h), (i), (j), (k) or (l) of sub-section (2) of section 5 or punishable under section 11" had been substituted; and
  - (e) section 14 had been omitted;

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- (3) the Motor Vehicles Act, 1939 (in this clause referred to 4 of 18) as the 'said Act') shall have effect subject to the following provisions, namely:—
  - "(a) the State Government may, by notification in the Official Gazette, authorise subject to such conditions, if any, as it may think fit to impose, any person—
    - (i) also to perform such functions of the State Government under Chapter IV (in this clause referred to as the 'said Chapter') of the said Act, other than the making of rules as may be specified in the notification; and
    - (ii) to perform to the exclusion of the State Transport Authority or Regional Transport Authority, as the case may be, such functions of the State Transport Authority or any Regional Transport Authority under the said Chapter as may be specified in the notification;

and the expression 'proper authority' in this clause shall in relation to the performance of any such function as aforesaid be construed in accordance with the provisions of such notification, if any, relating to that function;

- (b) notwithstanding anything to the contrary in section 58 or section 62 of the said Act, the proper authority may grant a permit or a temporary permit under the said Chapter to be effective for any specified period not exceeding five years;
- (c) the State Government may, by general or special order, in writing, provide that the proper authority—
  - (i) in deciding to grant or refuse to grant a permit under the said Chapter shall not be bound to take into consideration representations made by any persons other than the applicant for the permit or to follow the procedure laid down in section 57 of the said Act, and may take into consideration an application for a stage carriage permit or a public carrier's permit which has not complied with the provisions of sub-section (2) of that section;
  - (ii) in fixing the maximum and minimum fares or freights for stage carriages and public carriers, shall not be bound to give the representatives of the interests affected an opportunity of being heard or to follow the procedure laid down in section 43 of the said Act, or where such action is taken for the purpose of preventing the charge of excess fares or freights, to have regard to any of the considerations set forth in clauses (a) to (d) of sub-section (1) of that section;
- (d) without prejudice to the provisions of section 60 of the said Act, the proper authority may, if in its opinion the public interest so requires, cancel, or modify the conditions of, or suspend for such period as it thinks fit, any permit or counter-signature under the said Chapter which is valid in its jurisdiction;

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(e) the State Government may, by general or special order in writing, exempt from all or any of the provisions of the said Chapter any transport vehicle used or required for use in connection with any work or purpose declared by the State Government in the order to be a work or purpose connected with the defence of India, the conduct of military operations or civil defence;

(f) if the State Government by general or special order in writing so directs, the provisions of sub-section (2) of section 38 of the said Act shall have effect in relation to any controlled motor vehicles specified in the order as if the words "not being in any case more than two years or less than six months, had been omitted.

Explanation.—In this clause 'controlled motor vehicle' means a motor vehicle to which the provisions of the Civil Motor Transport Vehicles Order, 1944 or any other substantially similar Order for the time being in force apply.".

#### CHAPTER III

### CIVIL DEFENCE SERVICES

7. (1) The State Government may constitute for any area within Constituthe State a body of persons to be called the Civil Defence Service and tion of may appoint a person (hereinafter called the Controller) to command Civil such body.

Defence Service.

- (2) Subject to any orders which the Central Government may make in this hehalf, any member of a Civil Defence Service of any State may at any time be required to discharge functions in relation to civil defence in any other State and shall while so discharging such functions be deemed to be a member of a Civil Defence Service of that other State and be vested with the powers, functions and privileges and be subject to the liabilities of a member of a Civil Defence Service of that other State.
- 8. (1) Any authority authorised in this behalf by the State Gov-Appointernment may appoint as members of a Civil Defence Service so many ment of persons who are fit and willing to serve as such as it is authorised by members the State Government to appoint, and the Controller may appoint any and officers. such member to any office or command in the Service.

- (2) Every person so appointed to be a member of a Civil Defence Service shall be given a certificate of membership in such form as may be prescribed.
- 9. The Controller or any other authority authorised in this behalf Dismisby the State Government may, by order in writing, dismiss sum-sal of marily from a Civil Defence Service any member thereof if, in the members opinion of the Controller or such other authority, he fails to discharge of Civil Defence satisfactorily, or is guilty of misconduct in the discharge of, his duties Service. as such member, or his continued presence in the Service is otherwise undesirable.

Functions of members of Civil Defence Services.

- 10. (1) The members of a Civil Defence Service shall perform such functions in relation to the carrying out of measures for civil defence as may be assigned to them by rules made under this Ordinance or by any other law for the time being in force.
- (2) The Controller or any person authorised in this behalf by the Controller or by the State Government may by order at any time call out a member of a Civil Defence Service for training or to discharge any such functions as aforesaid.

Penalty.

11. If any member of a Civil Defence Service on being called out by an order under sub-section (2) of section 10 neglects or refuses without sufficient excuse to obey such order or to discharge his functions as a member of the Civil Defence Service or to obey any lawful order or direction given to him for the performance of his duties, he shall, on conviction by a competent court, be punishable with fine which may extend to five hundred rupees.

Power to make rules.

- 12. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Chapter.
- (2) In particular, and without prejudice to the generality of the foregoing powers, such rules may—
  - (a) prescribe the duties of members of Civil Defence Services and regulate the manner in which they may be called out for service;
  - (b) regulate the organisation, appointment, conditions of service, discipline, accourrement, and clothing of members of any or all of the Civil Defence Services;
  - (c) prescribe the form of certificates of membership of any or all of the Civil Defence Services;
  - (d) provide that a contravention of, or an attempt to contravene, and any abetment of or attempt to abet the contravention of, any of the provisions of the rules or of any order issued under any such provision shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both;
  - (e) provide for the arrest and trial of persons contravening, or reasonably suspected of contravening, any of the provisions of the rules or of any order issued under any such provision;
  - (f) provide for the seizure, detention and forfeiture of any property in respect of which such contravention, attempt or abetment as is referred to in clause (d) has been committed;
  - (g) prescribe the duties and powers of public servants and other persons as regards preventing the contravention of, or securing the observance of, the rules or of any order issued thereunder;
  - (h) provide for preventing the obstruction and deception of, and disobedience to, any person acting, and interference with any notice issued, in pursuance of the rules or of any order issued thereunder;
  - (i) prohibit attempts to screen from punishment any person contravening any of the rules.

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### SPECIAL TRIBUNALS

- 13. (1) The State Government may, for the whole or any part of Constithe State, constitue one or more Special Tribunals which or each of tution of which shall consist of three members appointed by that Government. Tribunals.
- (2) No person shall be appointed as a member of a Special Tribunal unless he-
  - (a) is qualified under clause (2) of article 217 of the Constitution for appointment as a Judge of a High Court; or
  - (b) has exercised the powers under the Code of Criminal Procedure, 1898 (hereafter in this Chapter referred to as the Code) of any one or more of the following, namely:—
    - (i) Sessions Judge, Additional Sessions Judge, Chief Presidency Magistrate, Additional Chief Presidency Magis-
      - (ii) District Magistrate, Additional District Magistrate.
- 14. During the period during which the Proclamation of Emer-Jurisgency is in operation, the State Government may, by general or special diction of order, direct that a Special Tribunal shall try any offence—

Special Tribunals.

- (a) under any rule made under section 3, or
- (b) punishable with death, imprisonment for life or imprisonment for a term which may extend to seven years,

triable by any court having jurisdiction within the local limits of the jurisdiction of the Special Tribunal and may in any such order direct the transfer to the Special Tribunal of any particular case from any other Special Tribunal or any other criminal court not being a High Court.

- 15. (1) A Special Tribunal may take cognizance of offences with-Procedure of Special out the accused being committed to it for trial. Tribunals.
- (2) Save in cases of trials of offences punishable with death or imprisonment for life, it shall not be necessary in any trial for a Special Tribunal to take down the evidence at length in writing, but the Special Tribunal shall cause a memorandum of the substance of what each witness deposes, to be taken down, and such memorandum shall be signed by a member of the Special Tribunal and shall form part of the record.
- (3) A Special Tribunal shall not be bound to adjourn any trial for any purpose unless such adjournment is, in its opinion, necessary in the interests of justice.
- (4) A Special Tribunal shall not, merely by reason of a change in its members, be bound to recall and to re-hear any witness who has given evidence, and it may act on the evidence already recorded by or produced before it.

<sub>45 of</sub> 1898.

- (5) After an accused person has once appeared before it, a Special Tribunal may try him in his absence if, in its opinion, his absence has been brought about by the accused himself for the purpose of impeding the course of justice, or if the behaviour of the accused in court has been such as, in the opinion of the Special Tribunal, to impede the course of justice.
- (6) In the event of any difference of opinion among the members of a Special Tribunal, the opinion of the majority shall prevail.
- (7) The State Government may, by notification in the Official Gazette, make rules providing for—
  - (i) the times and places at which Special Tribunals may sit; and
  - (ii) the procedure to be adopted in the event of any member of a Special Tribunal being prevented from attending throughout the trial of any accused person.
- (8) A Special Tribunal shall, in all matters in respect to which no procedure has been prescribed by this Ordinance or by rules made thereunder, follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates.

Exclusion of public from proceedings of Special Tribunals. 16. In addition, and without prejudice, to any powers which a Special Tribunal may possess by virtue of any law for the time being in force to order the exclusion of the public from any proceedings, if at any stage in the course of a trial of any person before a Special Tribunal, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the trial would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Special Tribunal may make an order to that effect, but the passing of the sentence shall in any case take place in public.

Power of Special Tribunals.

17. A Special Tribunal shall have all the powers conferred by the Code on a Court of Session exercising original jurisdiction.

Sentences of Special Tribunals.

- 18. (1) A Special Tribunal may pass any sentence authorised by law.
  - (2) A person sentenced by a Special Tribunal—
    - (a) to death or imprisonment for life, or
  - (b) to imprisonment for a term extending to ten years under section 5 of this Ordinance or under sub-section (4) of section 5 of the Indian Official Secrets Act, 1923, as amended by section 19 of 1923, 6 of this Ordinance,

shall have a right of appeal to the High Court within whose jurisdiction the sentence has been passed, but save as aforesaid and notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall be no appeal from any order or sentence of a Special Tribunal, and no court shall have authority to revise such order or sentence, or to transfer any

case from a Special Tribunal, or to make any order under section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of a Special Tribunal.

(3) The powers conferred upon the appropriate Government by Chapter XXIX of the Code shall apply in respect of a person sentenced by a Special Tribunal.

#### CHAPTER V

REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY

19. (1) Notwithstanding anything contained in any other law for Requisithe time being in force, if in the opinion of the Central Government immovable or the State Government it is necessary or expedient so to do for property. securing the defence of India, civil defence, public safety, maintenance of public order or efficient conduct of military operations, or for maintaining supplies and services essential to the life of the community, that Government may by order in writing requisition any immovable property and may make such further orders as appear to that Government to be necessary or expedient in connection with the requisitioning:

Provided that no property or part thereof which is exclusively used by the public for religious worship shall be requisitioned.

- (2) The requisition shall be effected by an order in writing addressed to the person deemed by the Central Government or the State Government, as the case may be, to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.
- (3) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.
- 20. Whenever in pursuance of section 19 the Central Government Payment or the State Government, as the case may be, requisitions any of comimmovable property, there shall be paid to the persons interested pensation. compensation the amount of which shall be determined by taking into consideration the following, namely:-
  - (i) the rent payable in respect of the property or if no rent is payable, the rent payable in respect of similar property in the locality;
  - (ii) if in consequence of the requisition of the property the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the Central Government or the State Government, as the case may be, for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, may determine:

1 19 of 1928.

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred to an arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation—In this section, the expression "person interested" means the person who was in actual possession of the property requisitioned under section 19 immediately before the requisition, or where no person was in such actual possession, the owner of such property.

Power to obtain may be tion and give direction.

- 21. The Central Government or the State Government, as the case may be, may, with a view to requisitioning any property under section 19 or determining the compensation payable under section 20, by order—
  - (a) require any person to furnish to the authority mentioned therein such information in his possession relating to any property as may be specified;
  - (b) direct that the owner, occupier or the person in possession of the property shall not, without the permission of Government, dispose of it or where it is a building, structurally alter it till the expiry of such period as may be specified in the order.

Power of entry into, and inspection of, property, etc.

22. Any person authorised in this behalf by the Central Government or the State Government, as the case may be, may enter into any immovable property and inspect such property for the purpose of determining whether, and if so in what manner, an order under section 19 should be made in relation to such property or with a view to securing compliance with any order made under that section.

Eviction from requisitioned property.

- 23. (1) Any person remaining in possession of any requisitioned property in contravention of any order made under section 19 may be summarily evicted from the property by any officer empowered in this behalf by the Central Government or the State Government, as the case may be.
- (2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

Penalty for contravention of any order regarding requisitioning. 24. If any person contravenes any order made under section 19 or section 21 he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Release from requisition, 25. (1) Where any property requisitioned under section 19 is to be released from such requisition, the Government by which or under whose authority the property was requisitioned or any person generally or specially authorised by it in this behalf may, after such

inquiry, if any, as it or he may in any case, consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given.

- (2) The delivery of possession of the property to the person specified in the order under sub-section (1) shall be a full discharge of the Government from all liabilities in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is delivered.
- 26. (1) Any immovable property which has been requisitioned Acquisiunder section 19 may, in the manner hereinafter provided, be acquired tion of in the circumstances and by the Government specified below, tioned namely:--

property.

- (a) where any works have, during the period of requisition, been constructed on, in or over the property wholly or partly at the expense of any Government, the property may be acquired by that Government if it decides that the value of or the right to use, such works shall, by means of the acquisition of the property, be preserved or secured for the purposes of any Government, or
- (b) where the cost to any Government of restoring the property to its condition at the time of its requisition as aforesaid would, in the determination of that Government, be excessive having regard to the value of the property at that time, the property may be acquired by that Government.
- (2) When any Government as aforesaid decides to acquire any immovable property, it shall serve on the owner thereof or where the owner is not readily traceable or the ownership is in dispute, by publishing in the Official Gazette a notice stating that the Government has decided to acquire it in pursuance of this section,
- (3) Where a notice of acquisition is served on the owner of the property or is published in the Official Gazette under sub-section (2) then, at the beginning of the day on which the notice is so served or published, the property shall vest in the Government free from any mortgage, pledge, lien or other similar encumbrances and the period of requisition thereof shall come to an end.
- (4) Any decision or determination of a Government under subsection (1) shall be final, and shall not be called in question in any court.
- (5) For the purposes of this section, "works" includes every description of buildings, structures and improvements of the property.
- 27. The compensation payable for the acquisition of any property Compenunder section 26 shall be-
  - (a) the price which the requisitioned property would have quisitioned fetched in the open market if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition, or

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(b) twice the price which requisitioned property would have fetched in the open market if it had been sold on the date of the requisition,

whichever is less.

### CHAPTER VI

#### SUPPLEMENTAL

### Power to delegate.

- 28. (1) The Central Government may, by order, direct that any power or duty which by rule under sub-section (1) of section 3 is conferred or imposed upon the Central Government shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged also—
  - (a) by any officer or authority subordinate to the Central Government, or
  - (b) whether or not the power or duty relates to a matter with respect to which a State Legislature has power to make laws, by any State Government or by any officer or authority subordinate to such Government, or
    - (c) by any other authority.
- (2) The Central Government may, by notification in the Official Gazette, direct that the power to make rules under section 12 shall, in relation to such matters and subject to such conditions, if any, as may be specified in the notification, be exercisable also—
  - (a) by any officer or authority subordinate to the Central Government, or
  - (b) by any State Government or by any officer or authority subordinate to such Government.
- (3) The State Government may, by order, direct that any power or duty which by rule made under sub-section (1) of section 3 is conferred or imposed on the State Government or which, being any such rule conferred or imposed on the Central Government has been directed under sub-section (1) to be exercised or discharged by the State Government, shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by any officer or authority not being (except in the case of a Union territory) an officer or authority subordinate to the Central Government.

### Jurisdiction of ordinary courts.

- 29. (1) Except as may be provided in this Ordinance or in any rule made thereunder or in any order made under any such rule by the Central Government or the State Government or by an officer not below the rank of Collector empowered under sub-section (1) or subsection (3) of section 28 to make such order, the ordinary criminal and civil courts shall continue to exercise jurisdiction.
- (2) For the removal of doubts, it is hereby declared that any provision in any such rule or order as aforesaid to the effect that the decision of any authority not being a court shall be final or conclusive shall be a sufficient excepting provision within the meaning of subsection (1).

30. Any rule made under section 3 or section 12 and any order Effect of made under any such rule shall have effect notwithstanding anything rules etc., inconsisinconsistent therewith contained in any enactment other than this tent with Ordinance or in any instrument having effect by virtue of any enact- other enment other than this Ordinance.

31. Any authority or person acting in pursuance of this Ordinance Ordinary shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the purpose of life to be ensuring the public safety and interest and the defence of India and intercivil defence.

fered with as little as possible.

32. (1) No order made in exercise of any power conferred by or Savings as under this Ordinance shall be called in question in any court.

to orders.

(2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Ordinance, a court shall, within the meaning of the Indian Evidence Act, 1872, presume that such order was so made by that authority.

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33. Unless otherwise expressly provided in any rules or orders Chapter made under Chapter III, nothing contained in that Chapter or any III not to such rules or orders shall apply to the Armed Forces of the Union or to any measures taken by any of the authorities in control of the taken for Armed Forces for the purpose of securing the defence or safety of the prosuch forces or for the protection of any naval, military or air force tection of installations.

 $\mathbf{Armed}$ Forces.

34. (1) No suit, prosecution or other legal proceeding shall lie Protection against any person for anything which is in good faith done or in- of action tended to be done in pursuance of this Ordinance or any rules made taken thereunder or any orders issued under any such rule.

under the Ordinance.

(2) Save as otherwise expressly provided under this Ordinance, no suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Ordinance or any rule made thereunder or any order issued under any such rule.

S. RADHAKRISHNAN,

President.

R. C. S. SARKAR, Secy, to the Govt of India.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1962



# The Eazette



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### EXTRAORDINARY PUBLISHED BY AUTHORITY

PART II—Section 1

No. 48] NEW DELHI, TUESDAY, OCTOBER 30, 1962/KARTIKA 8, 1884

### FOREIGNERS LAW (APPLICATION AND AMENDMENT) ORDINANCE, 1062

No. 5 of 1962

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

An Ordinance to apply the Registration of Foreigners Act, 1939 and the Foreigners Act, 1946 to certain persons to whom they do not at present apply and further to amend the Foreigners Act, 1946.

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 Foreigners Law (Applica-Short title tion and Amendment) Ordinance, 1962.

and commencenient.

- (2) It shall be deemed to have come into force on the 26th October, 1962.
- 2. Notwithstanding anything contained in any other law for the Applicatime being in force, the provisions of the Registration of Foreigners tion of Act Act, 1939, and the Foreigners Act, 1946, and of the rules and orders 16 of 1939 made thereunder shall apply to and in relation to any person not of and Act 31 Indian origin who was at birth a citizen or subject of any country at certain war with, or committing external aggression against, India or of any persons. other country assisting the country at war with or committing such aggression against India, as they apply to and in relation to foreigners as defined for the purposes of those Acts.

16 of 1939. 31 of 1946. Explanation.—For the purposes of this section, a person not of Indian origin means a person other than a person of Indian origin within the meaning of the Explanation to sub-section (1) of section 5 of the Citizenship Act, 1955.

57 of 1955.

Amendment of Act 31 of 1946.

- 3. In the Foreigners Act, 1946,—
- (a) in section 3, after clause (f) of sub-section (2), the following clause shall be inserted, namely:—
  - "(g) shall be arrested and detained or confined;"; (b) in section 4,—
  - (i) before sub-section (2), the following sub-section shall be inserted, namely:—
    - "(1) Any foreigner (hereinafter referred to as an internee) in respect of whom there is in force any order made under clause (g) of sub-section (2) of section 3, directing that he be detained or confined, shall be detained or confined in such place and manner and subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as the Central Government may from time to time by order determine.";
  - (ii) for sub-sections (3) and (4), the following subsections shall be substituted, namely:—
    - "(3) No person shall—
    - (a) knowingly assist an internee or a person on parole to escape from custody or the place set apart for his residence, or knowingly harbour an escaped internee or person on parole, or
    - (b) give an escaped internee or person on parole any assistance with intent thereby to prevent hinder or interfere with the apprehension of the internee or the person on parole.
    - (4) The Central Government may, by order, provide for regulating access to, and the conduct of persons in, places in India where internees or persons on parole are detained or restricted, as the case may be, and for prohibiting or regulating the despatch or conveyance from outside such places to or for internees or persons on parole therein of such articles as may be prescribed.".

S. RADHAKRISHNAN,

President.

R. C. S. SARKAR, Secy. to the Govt. of India.

### GOVERNMENT OF INDIA MINISTRY OF LAW

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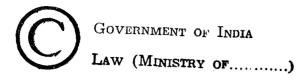


# THE DEFENCE OF INDIA (AMENDMENT) ORDINANCE, 1962

(6 of 1962)

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1963

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# THE DEFENCE OF INDIA (AMENDMENT) ORDINANCE, 1962

No. 6 of 1962

(Published in the Gazette of India Extraordinary, Part II, Section 1, dated the 3rd November, 1962)



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

An Ordinance to amend the Defence of India Ordinance, 1962.

WHEREAS the President has declared by Proclamation under clause (1) of article 352 of the Constitution that a grave emergency exists whereby the security of India is threatened by external aggression;

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 Defence of India Short
  (Amendment) Ordinance, 1962.

  (2) It shall come into force at once.
- 2. In the Defence of India Ordinance, 1962 (hereinafter referred Amendto as the principal Ordinance), in sub-section (2) of section 3—ment of section 3

  (a) in sub-clause (j) of clause (9), after the words 'civil of Ord.
  defence', the words 'the public safety' shall be inserted;

  4 of 1962.
  - (b) after clause (13), the following clause shall be inserted, namely:—
    - "(13A) notwithstanding anything in any other law for the time being in force,—
      - (i) the apprehension and detention in custody of any person whom the authority empowered by the

[ORD. 6 OF 1962]

rules to apprehend or detain, as the case may be, suspects, on grounds appearing to that authority to be reasonable, of being of hostile origin or of having acted, acting, being about to act or being likely to act in a manner prejudicial to the defence of India and civil defence, the security of the State, the public safety or interest, the maintenance of public order, India's relations with foreign States, the maintenance of peaceful conditions in any part or area of India or the efficient conduct of military operations, or with respect to whom that authority is satisfied that his apprehension and detention are necessary for the purpose of preventing him from acting in any such prejudicial manner,

- (ii) the prohibition of such person from entering or residing or remaining in any area, and
- (iii) the compelling of such person to reside and remain in any area, or to do or abstain from doing anything;".

Amendment of section 6.

- 3. In section 6 of the principal Ordinance, for sub-clause (a) of clause (1), the following sub-clause shall be substituted, namely:—
  - "(a) in sub-section (1) of section 5 thereof, after the words 'in his possession or control', the words 'any information likely to assist the enemy as defined in the rules made under the Defence of India Ordinance, 1962, or' had been inserted; and after the words 'in such a place', the words 'or which relates to or is used in, a protected area as defined in the rules made under the Defence of India Ordinance, 1962, or relates to anything in such area,' had been inserted.".

S. RADHAKRISHNAN.

President.

### GOVERNMENT OF INDIA MINISTRY OF LAW



### THE COMPANIES (AMENDMENT) ORDINANCE, 1962

(7 of 1962)

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1963

Price: Re. 0.20 nP. or 4d.



GOVERNMENT OF INDIA

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### THE COMPANIES (AMENDMENT) ORDINANCE, 1962

No. 7 of 1962

(Published in the Gazette of India Extraordinary, Part II, Section 1, dated the 3rd November, 1962)



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

An Ordinance further to amend the Companies Act, 1956.

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 Companies (Amenda Short title and commencement.
  - (2) It shall come into force at once.

2. During the period of operation of this Ordinance, the Com-Insertion panies Act, 1956, shall have effect as if after section 293A, the of new section following section had been inserted, namely:—

2. During the period of operation of this Ordinance, the Com-Insertion of new section 293B.

"293B. The Board of directors of any company may, not-Power of withstanding anything contained in sections 293 and 293A or in Board to the memorandum, articles or any other instrument relating to the company, contribute such amount as it thinks fit to the National Defence Fund or any other Fund approved by the National Central Government for the purpose of national defence."

Defence Fund, etc.

S. RADHAKRISHNAN,
President.

MGIPND—M—92 Law Jc 4421—1-2-1963—1500



REGISTERED No. D. 221

# The Gazette



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### EXTRAORDINARY PUBLISHED BY AUTHORITY

PART II -- Section 1

NEW DELHI, TUESDAY, NOVEMBER 6, 1962/KARTIKA 15, 1884 No. 50]

### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 6th November, 1962/Kartika 15, 1884 (Saka)

### PONDICHERRY (ADMINISTRATION) THE ORDINANCE, 1962

No. 80F 1962

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

An Ordinance to provide for the administration of Pondicherry and for matters connected therewith.

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 Pondicherry (Administra- Short title, tion) Ordinance, 1962.

extent and commencement.

- (2) It extends to the whole of Pondicherry.
- (3) It shall be deemed to have come into force on the 16th day of August, 1962.
  - 2. In this Ordinance, unless the context otherwise requires,—

Definitions.

(a) "Administrator" means the Administrator of Pondicherry appointed by the President under article 239 of the Constitution;

(355)

- - (b) "appointed day" means the 16th day of August, 1962. being the date of entry into force of the Treaty of Cession;
  - (c) "former French Establishments" mean the territories which immediately before the appointed day were comprised in the French Establishments in India known as Pondicherry. Karikal, Mahe and Yanam;
    - (d) "High Court" means the High Court at Madras;
  - (e) "law" means any Act, Ordinance, Regulation, rule, order, bye-law, decree or other provision (by whatever name called) having the force of law;
  - (f) "Pondicherry" means the Union territory comprising the territories of the former French Establishments;
  - (g) "Treaty of Cession" means the treaty concluded between France and India on the 28th day of May, 1956, establishing the cession of the French Establishments by France to India in full sovereignty.

Officers and functionaries Pondicherry.

3. Without prejudice to the powers of the Central Government toin relation to appoint from time to time such officers and authorities as may be necessary for the administration of Pondicherry, all courts, tribunals, authorities and officers, whether in India or in the former French Establishments, who, immediately before the appointed day, were exercising lawful functions in connection with the administration of those Establishments or any part thereof, including the Council of Government and the Representative Assembly, shall, unless otherwise directed at any time by the Central Government or the Administrator in relation to any such court, tribunal, authority or officer, or until other provision is made by law, continue to exercise in connection with the administration of Pondicherry their respective powers and jurisdiction and perform their respective duties and functions in the same manner and to the same extent as before the appointed day with such altered designation, if any, as that Government may determine.

Continuance of existing laws and their adaptation.

4. (1) All laws in force immediately before the appointed day in the former French Establishments or any part thereof shall continue to be in force in Pondicherry until amended or repealed by a competent Legislature or other competent authority:

Provided that references in any such law to the President or Government of the French Republic shall be construed as references to the Central Government, references to the Governor of the French. Establishments in India, to the Commissioner of the Republic for the French Establishments in India, to the Chief Commissioner for the

French Establishments, to the Chief Commissioner of the State Pondicherry or to the Chief Commissioner, Pondicherry shall be construed as references to the Administrator of Pondicherry references to the State of Pondicherry shall be construed as references to Pondicherry.

- (2) For the purpose of facilitating the application of any such law in relation to the administration of Pondicherry and for the purpose of bringing the provisions of any such law into accord with the provisions of the Constitution, the Central Government may, within three years from the appointed day, by order, make such adaptations and modifications, whether by way of repeal or amendment, as may be necessary or expedient and thereupon every such law shall have effect subject to the adaptations and modifications so made.
- 5. For the avoidance of doubt, it is hereby declared that all pro- Property and perty and assets within Pondicherry which, immediately before the assets. appointed day, vested in the Government of the French Republic shall, save as otherwise expressly provided in the Treaty of Cession, vest in the Union.
- 6. Subject to the provisions of the Treaty of Cession, all rights, Rights and liabilities and obligations of the Government of the French Republic in relation to or arising out of the administration of the former French Establishments shall, as from the appointed day, be the rights, liabilities and obligations of the Central Government.

- 7. All taxes, duties, cesses and fees which, immediately before the Continuance of existing appointed day, were being lawfully levied in the former French taxes. Establishments or any part thereof shall continue to be levied in Pondicherry and to be applied to the same purposes, until other provision is made by a competent Legislature or other competent authority.
- 8. The Central Government may, by notification in the Ufficial Power to extend enact. Gazette, extend with such restrictions and modifications as it thinks ments fit, to Pondicherry any enactment which is in force in a State at the Pondicherry. date of the notification.

9. As from the date of promulgation of this Ordinance, the juris-Extension of diction of the High Court shall extend to Pondicherry.

the jurisdiction of Madras High Court to Pondicherry.

10. (1) Without prejudice to the generality of the provisions of Jurisdiction section 9, the High Court shall have, in respect of Pondicherry, all Court. such jurisdiction as under the law in force immediately before the appointed day was exercisable in respect of the former French

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Establishments by the Cour de Cassation, the Cour Superieur d' Arbitrage and the Conseil d' Etat of France:

Provided that while determining appeals from decisions of courts and tribunals in Pondicherry, the High Court shall, as far as may be, follow the same procedure and have the same power to pass any judgment, decree or order thereon, as it follows and has while determining appeals from decisions of courts in the State of Madras.

(2) All appeals and other proceedings from or in respect of any judgment, decree or order of any court or tribunal in the former French Establishments pending immediately before the appointed day before the Cour de Cassation or the Cour Superieur d' Arbitrage or the Conseil d' Etat of France and all original proceedings in relation to those Establishments pending immediately before the appointed day before the Conseil d' Etat shall, by virtue of this Ordinance, stand transferred to the High Court and shall be disposed of by the High Court in the exercise of jurisdiction conferred on it by this Ordinance, as if such appeals and other proceedings had been filed before the High Court.

Explanation.—All appeals and other proceedings filed before the appointed day but not transmitted to the Cour de Cassation or the Cour Superieur d' Arbitrage or the Conseil d' Etat shall be deemed to be appeals or proceedings, as the case may be, pending before that Court for the purposes of this sub-section.

Advocates entitled to practise before High Court. 11. Notwithstanding anything contained in the Advocates Act, 1961, but subject to such rules as may be framed by the High Court, 25 of 1961 any person who is entitled to practise before the Tribunal Superieur d'Appel at Pondicherry shall be recognised as an advocate entitled to practise in the High Court in relation to cases coming pefore the High Court from Pondicherry.

Power of High Court to make rules.

- 12. The High Court may, from time to time, make rules, consistent with this Ordinance, to provide for all or any of the following matters, namely:—
  - (a) the translation of any papers filed in the High Court and the preparation of paper books for hearing all appeals and the copying, typing or printing of any such papers or translation and the recovery from the persons at whose instance or on whose behalf papers are filed of the expenses thereby incurred;
  - (b) the court-fees payable for instituting proceedings in the High Court, the fees to be charged for processes issued by the High Court or by any officer of the court and the amount payable in any proceeding in the High Court in respect of fees

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of the advocate of any party to such proceeding;

- (c) the procedure to be followed in the High Court:
- (d) the approval, admission, enrolment, removal and suspension of advocates from Pondicherry.

13. (1) Every order or decree purported to have been made by the Validation Cour de Cassation, the Cour Superieur d' Arbitrage or the Conseil of certain d' Etat of France during the period commencing on the first day of orders and November, 1954, and ending on the appointed day, in any appeal or decrees. other proceeding from, or in respect of any judgment, decree or order of any court, tribunal or other authority in the former French Establishments shall be deemed to have been validly made, in accordance with law; and shall for all purposes have effect as if it were an order or decree made by the High Court in the exercise of the jurisdiction conferred by this Ordinance.

- (2) Notwithstanding anything contained in sub-section (1), where any decision has been rendered after the 17th March, 1960, by any court in France in any case in which the respondent had no opportunity to appear for want of service of summons transmitted through the Administration of the former French Establishments, such decision shall be deemed never to have been rendered and shall be deemed to be pending before the court by which such decision was rendered and accordingly stand transferred to the High Court or, as the case may be, to the court in Pondicherry corresponding to the court in France in which the case shall be deemed to be pending.
- (3) As soon as may be after the date of promulgation of this Ordinance, the Administrator shall transmit to the High Court or, as the case may be, to the corresponding court, the record of every such case as is referred to in sub-section (2), together with a certificate that the summons in that case was not served on the respon-

14. (1) The periods of limitation for appeals to the High Court Limitation for appeals. shall be as set out below:-

8.1	No. Description of appeal	Period of limitation	
I.	Civil Appeal against any judg- ment or order.	90 days	The date of the judgment or order.
2.	Criminal Appeal against a sentence of death.	7 days	The date of sentence.
3.	Criminal Appeal against any sentence or order other than a sentence of death.	30 days	The date of the sentence or order.
4.	Criminal Appeal against an order of acquittal.	90 days	The date of the order of acquittal.
5.	Labour Appeal under section 207 of the French Labour Code, 1952.	30 days	The date of the judgment or order.
6.	Labour Appeal under section 216 of the French Labour Code, 1952.	30 days	The date on which the report and the recommendation of the expert are communicated to the party appealing.
7.	Appeal against a judgment or order of the Administrative Tribunal at Pondicherry.	90 days	The date of the judgment or order.

- (2) Except in the case of a Criminal Appeal against a sentence of death, in computing the period of limitation, the time taken for obtaining a certified copy of the judgment, order, report and recommendation, appealed against, as the case may be, shall be excluded.
- (3) In the case of an appeal preferred by an accused person under sentence and in custody, the date on which he lodges the memorandum of appeal with the Superintendent of the Jail in which he is detained shall be deemed to be the date of presentation of the appeal in the High Court.
- (4) Any appeal may be admitted after the period of limitation prescribed therefor when the appellant satisfies the Court that he had sufficient cause for not preferring the appeal within such period.

15. In computing the period of limitation under section 14 or under Saving of Imitation in any other law, any period during which an appeal could not be filed certain cases. or a proceeding could not be instituted because the jurisdiction of the High Court did not extend to Pondicherry shall be excluded.

16. References in any law in force in Pondicherry to the Cour de Rule of construction. Cassation, the Cour Superieur d' Arbitrage or the Conseil d' Etat shall be construed as references to the High Court.

Power to construe laws.

17. For the purpose of facilitating the application of any law in relation to Pondicherry, any court or other authority may construe any such law in such manner not affecting the substance, as may be necessary or proper to adapt it to the matter before the court or other authority.

Effect of other laws.

18. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law in force in Pondicherry.

Power remove difficulties.

- 19. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette, make any such provisions as appear to it to be necessary or expedient for removing the difficulty.
- (2) Any order under sub-section (1) may be made so as to be retrospective to any date not earlier than the appointed day.

S. RADHAKRISHNAN,

President.

R. C. S. SARKAR, Secy. to the Govt. of India.

# Rep. by Act 2000 1964, 5.5 (w-e.f.q.5.64)

# THE ARMED FORCES (SPECIAL POWERS) CONTINUANCE ORDINANCE, 1964

No. 1 of 1964

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

An Ordinance to continue the Armed Forces (Special Powers) Regulation, 1958, for a further period.

WHEREAS the Armed Forces (Special Powers) Regulation, 1958 expires on the 4th day of April, 1964 and a Bill to continue the said Regulation for a further period has been introduced in Parliament but has not yet been passed;

AND WHEREAS both Houses of Parliament are 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 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:-

1. (1) This Ordinance may be called the Armed Forces (Special Short title Powers) Continuance Ordinance, 1964.

and commencement.

- (2) It shall come into force at once.
- 2. During the period of operation of this Ordinance, the Armed Regulation Forces (Special Powers) Regulation, 1958 (hereinafter referred to be tempoas the Regulation) shall have effect subject to the amendments rarily amended specified in sections 3, 4 and 5.

3. In the Regulation, except in section 7, for the expression "Naga Substitu-Hills-Tuensang Area", wherever it occurs, the expression "State of references Nagaland" shall be substituted.

to Naga Hills-Tuensang

4. In section 1 of the Regulation, in sub-section (4), for the words Amend-"six years", the words "seven years" shall be substituted.

ment of section 1. Amendment of section 3. 5. In section 3 of the Regulation, for the words "Governor of Assam", the words "Governor of Nagaland" shall be substituted.

S. RADHAKRISHNAN, *President*.

R. C. S. SARKAR, Secy. to the Govt. of India.

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## EXTRAORDINARY PART II-Section 1 PUBLISHED BY AUTHORITY

NEW DELHI, SUNDAY, JULY 5, 1964/ASADHA 14, 1886 (Saka) No. 27]

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

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, 5th July, 1964/Asadha 14, 1886 (Saka)

THE COMPANIES (AMENDMENT) ORDINANCE, 1964

No. 2 of 1964

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

An Ordinance further to amend the Companies Act, 1956.

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 Companies (Amendment) Short title Ordinance, 1964.

and commencement.

(2) It shall come into force at once.

2. After section 635A of the Companies Act, 1956, the following Insertion sub-heading and section shall be inserted, namely:

sub-heading and section after 635A of Act 1 of 1956.

#### "Temporary Protection of Employees

Protection
of employees
during
investigation by
Inspector
or pendency of
proceeding
before
Tribunal
in certain
cases.

635B. (1) If—

- (a) during the course of any investigation of the effairs and other matters of or relating to a company, body or person under section 235, section 237 or section 239 or of the membership and other matters of or relating to a company, or the ownership of shares in or debentures of a company or body corporate, or the affairs and other matters of or relating to a company, body or person, under section 247, section 248 or section 249; or
- (b) during the pendency of any proceeding against any person concerned in the conduct and management of the affairs of a company under Chapter IVA of Part VI,

such company, body or person proposes-

- (i) to discharge, or
- (ii) to punish, whether by dismissal, removal, reduction in rank or otherwise,

any employee, the company, body or person, as the case may be, shall send by post to the Company Law Board previous intimation in writing of the action proposed against the employee and if the Company Law Board has any objection to the action proposed, it shall send by post notice thereof in writing to the company, body or person concerned.

- (2) If the company, body or person concerned does not receive within thirty days of the sending of the previous intimation of the action proposed against the employee, any notice of the objection from the Company Law Board, then and only then, the company, body or person concerned may proceed to take against the employee the action proposed.
- (3) If the company, body or person concerned is dissatisfied with the objection raised by the Company Law Board, it may, within thirty days of the receipt of the notice of the objection, prefer an appeal to the Tribunal in the prescribed manner and on payment of the prescribed fee.
- (4) The decision of the Tribunal on such appeal shall be final and be binding on the Company Law Board and on the company, body or person concerned.

SEC. 1]

(5) For the removal of doubt, it is hereby declared that the provisions of this section shall have effect without prejudice to the provisions of any other law for the time being in force."

S. RADHAKRISHNAN,

President.

R. C. S. SARKAR, Secy. to the Govt. of India.



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# EXTRAORDINARY PART II-Section 1 PUBLISHED BY AUTHORITY

NEW DELHI, THURSDAY, NOVEMBER 5, 1964/KARTIKA 14, 1886

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## MINISTRY OF LAW

(Legislative Department)

New Delhi, the 5th November, 1964/Kartika 14, 1886 (Saka)

THE ESSENTIAL COMMODITIES (AMENDMENT) ORDINANCE, 1964

No. 3 of 1964

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

An Ordinance further to amend the Essential Commodities Act, 1955, and the Criminal Law Amendment Act, 1952.

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 Essential Commodities Short title (Amendment) Ordinance, 1964.

and commencement.

Act 10 of

- (2) It shall come into force at once.
- 2. During the period of operation of this Ordinance,—

(1) the Essential Commodities Act, 1955, shall have effect 1955 and Act 46 of as if after section 12, the following section had been inserted, 1952 to be namely:-

"12A. (1) Notwithstanding anything contained in sub-Power to try section (1) of section 260 of the Code of Criminal Procedure, summarily. 1898, any magistrate of the first class specially empowered in this behalf by the State Government or any presidency

magistrate shall try in a summary way all offences relating

temporarily

amended.

of 1898

of 1955a

(357)

to the contravention of any such order made under section 3 as the Central Government may by notified order specify in this behalf, and the provisions of Chapter XXII of the said Code shall, as far as may be, apply to such trial:

Provided that in the case of any conviction under this section, it shall be lawful for the magistrate to pass a sentence of imprisonment for a term not exceeding one year.

- (2) Notwithstanding anything contained in section 414 of the Code of Criminal Procedure, 1898, there shall be no 5 of 1898 appeal by a convicted person in any case tried summarily under this section in which the magistrate passes a sentence of imprisonment not exceeding one month or of fine not exceeding two thousand rupees, or both.";
- (2) the Criminal Law Amendment Act, 1952, shall have 46 of 1930 effect as if after section 8, the following section had been inserted, namely:—

Power to try summarily.

"8A. (1) Where a special judge tries any offence specified in sub-section (1) of section 6 alleged to have been committed by a public servant in relation to the contravention of any such order made under section 3 of the Essential Commodities Act, 1955, as may be specified by the Central TO of TOST Government by a notified order made under section 12A of that Act, then, notwithstanding anything contained in subsection (1) of section 8 of this Act or sub-section (1) of section 260 of the Code of Criminal Procedure, 1898, the 5 of 1898 special judge shall try the offence in a summary way, and the provisions of Chapter XXII of the said Code shall, as far as may be, apply to such trial:

Provided that in the case of any conviction under this section, it shall be lawful for the special judge to pass a sentence of imprisonment for a term not exceeding one year.

(2) Notwithstanding anything contained in this Act or in the Code of Criminal Procedure, 1898, there shall be no 5 of 1898 appeal by a convicted person in any case tried summarily under this section in which the special judge passes a sentence of imprisonment not exceeding one month or of fine not exceeding two thousand rupees, or both."

S. RADHAKRISHNAN,

· President.

R. C. S. SARKAR, Secy. to the Govt. of India.

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### EXTRAORDINARY PART II—Section 1 PUBLISHED BY AUTHORITY

#### No. 1 NEW DELHI, WEDNESDAY, JANUARY 6, 1965/PAUSA 16, 1886

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

# MINISTRY OF LAW

(Legislative Department)

New Delhi, the 6th January, 1965/Pausa 16, 1886 (Saka)

THE INCOME-TAX (AMENDMENT) ORDINANCE, 1965 No. 1 of 1965

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

An Ordinance further to amend the Income-tax Act, 1961.

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 Income-tax (Amendment) Short Ordinance, 1965.

title and commencement.

(2) It shall come into force at once.

2. In section 132 of the Income-tax Act, 1961 (hereinafter referred Amendment to as the principal Act),—

of section 132.

- (i) for sub-section (1), the following sub-sections shall be substituted, namely:--
  - "(1) Where the Commissioner, in consequence of information in his possession, has reason to believe that-
    - (a) any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 131 of this Act, or a

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notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 11 of is. 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account, or other documents as required by such summons or notice, or

- (b) any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced any books of account or other documents which will be useful for, or relevant to, any proceeding under the Indian Income-tax Act. 1922 or under this Act, or
- (c) any person is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been disclosed for the purposes of the Indian Income-tax Act, 1922 or this Act (hereinafter 11 of 1922) referred to as the undisclosed income or property),

he may authorise any Inspecting Assistant Commissioner or any Income-tax Officer to-

- (i) enter and search any building or place where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept;
- (ii) seize any such books of account, documents, money, bullion, jewellery or other valuable article or thing found as a result of such search;
- (iii) place marks of identification on any such books of account or other documents or make or cause to be made extracts or copies therefrom;
- (iv) make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing.
- (1A) The Inspecting Assistant Commissioner or the Income-tax Officer authorised under sub-section (1) may requisition the services of any police officer or of any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in that sub-section and it shall be the duty of every such officer to comply with such requisition.

11 of 1922,

(1B) Where any money, bullion, jewellery or other valuable article or thing (hereinafter referred to as the assets) is seized under sub-section (1), the Incometax Officer, after making an enquiry in such manner as may be prescribed, shall, within ninety days of the seizure, make an order, with the previous approval of the Commissioner,—

- (i) estimating the undisclosed income (including the income from the undisclosed property) in a summary manner to the best of his judgment on the basis of such materials as are available with him;
- (ii) calculating the tax on the income so estimated in accordance with the provisions of the Indian Incometax Act, 1922 or this Act;
- (iii) specifying the amount that will be required to satisfy any existing liability under this Act and any one or more of the Acts specified in clause (a) of sub-section (1) of section 230A in relation to which such person is in default or is deemed to be in default,

and retain in his custody, for application in the prescribed manner, such assets or part thereof as are in his opinion sufficient to satisfy the aggregate of the amounts specified in clauses (ii) and (iii) and forthwith release the remaining portion, if any, of the assets to the person from whose custody they were seized:

Provided that if, after taking into account the materials available with him, the Income-tax Officer is of the view that it is not possible to ascertain to which particular previous year or years such income or any part thereof relates, he may calculate the tax on such income or part, as the case may be, as if such income or part were the total income assessable for the assessment year in which the assets were seized.

- (1C) If the Income-tax Officer is satisfied that the seized assets or any part thereof were held by such person for or on behalf of any other person, the Income-tax Officer may proceed under sub-section (1B) against such other person and all the provisions of that sub-section shall apply accordingly.";
- (ii) after sub-section (4), the following sub-section shall be inserted, namely:—
  - "(4A) If any person objects for any reason to an order made, under sub-section (1B), he may, within thirty days of

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the date of such order, make an application to the Board stating therein the reasons for such objection and requesting for appropriate relief in the matter.";

- (iii) in sub-section (5), after the words, brackets and figure "under sub-section (4)", the words, brackets, figure and letter "or sub-section (4A)" shall be inserted;
- (iv) in sub-section (7), for the word "searches", the words "any search or seizure" shall be substituted;
- (v) the following Explanations shall be inserted at the end, namely:—

'Explanation 1.—In computing the period of ninety days for the purposes of sub-section (1B), any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

Explanation 2.—In this section, the word "proceeding" means any proceeding in respect of any year, whether under the Indian Income-tax Act, 1922 or this Act, which may be 11 of 1922 pending on the date on which a search is authorised under this section or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.'

Amendment of section

- 3. In section 271 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—
  - "(4A) Notwithstanding anything contained in clause (iii) of sub-section (1), the Commissioner may, in his discretion, reduce or waive the amount of minimum penalty imposable on a person under the said clause if he is satisfied that such person—
    - (a) has, prior to the detection by the Income-tax Officer, of the concealment of particulars of income in respect of which the penalty is imposable, or the inaccuracy of particulars furnished in respect of such income, voluntarily and in good faith, made full and true disclosure of such particulars;
    - (b) has co-operated in any enquiry relating to the assessment of such income; and
    - (c) has either paid or made satisfactory arrangements for payment of any tax or interest payable in consequence of

an order passed under this Act in respect of the relevant assessment year:

Provided that if in a case the minimum penalty imposable under clause (iii) of sub-section (1) in respect of the relevant assessment year, or where such disclosure relates to more than one assessment year, the aggregate of the minimum penalty imposable in respect of those years, exceeds a sum of rupees fifty thousand, no order reducing or waiving the penalty shall be made by the Commissioner unless the previous approval of the Board has been obtained.

- (4B) An order under sub-section (4A) shall be final and shall not be called in question before any court of law or any other authority.".
- 4. In section 279 of the principal Act, after sub-section (1), the Amendment following sub-section shall be inserted, namely:-

of section 279.

- "(1A) A person shall not be proceeded against for an offence under section 277 in relation to the assessment for an assessment year in respect of which the penalty imposable upon him under clause (iii) of sub-section (1) of section 271 has been reduced or waived by an order under sub-section (4A) of that section.".
- 5. Any search of a building or place by an Inspecting Assistant Validation Commissioner or Income-tax Officer purported to have been made of certain searches in pursuance of sub-section (1) of section 132 of the principal Act made. before the commencement of this Ordinance shall be deemed to have been made in accordance with the provisions of that sub-section as amended by this Ordinance as if those provisions were in force on the day the search was made and shall not be called in question before any court or any other authority merely on the ground-

(i) that the Inspecting Assistant Commissioner or the Income-tax Officer made such search with the assistance of any other person; or

(ii) that no proceeding under the Indian Income-tax Act, 1922, or the principal Act was pending against the person concerned when the search was authorised under the said sub-section.

> S. RADHAKRISHNAN. President.

> R. C. S. SARKAR, Secy. to the Govt. of India.

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**EXTRAORDINARY** 

भाग II — खण्ड I

PART II—Section I

प्राधिकार से प्रकाशित

### PUBLISHED BY AUTHORITY

सं० 14] नई दिल्ली, वीरवार, मई 20, 1965/बैसाखा 30, 1887 No. 14] NEW DELHI, THURSDAY, MAY 20, 1965/VAISAKHA 30, 1887

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह श्रलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 20th May, 1965/Vaisakha 30, 1887 (Saka)

THE ALIGARH MUSLIM UNIVERSITY (AMENDMENT)
ORDINANCE, 1965

No. 2 of 1965

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

An Ordinance further to amend the Aligarh Muslim University Act, 1920.

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 Aligarh Muslim University Short title a (Amendment) Ordinance, 1965.
  - (2) It shall come into force at once,

Short title and commencement. Act 40 of 1920 to be temporarily amended.

2. During the period of operation of this Ordinance, the Aligarh Muslim University Act, 1920 (hereinafter referred to as the principal Act), and the Statutes thereunder shall have effect subject to the amendments specified in this Ordinance.

Amendment of section 23.

- 3. In section 23 of the principal Act,—
- (a) in sub-section (1), the words and brackets "and the Pro-Vice-Chancellor (if any) for the time being," shall be omitted;
- (b) for sub-sections (2) and (3), the following sub-section shall be substituted, namely:—
  - "(2) The functions of the Court shall be—
  - (a) to advise the Visitor in respect of any matter which may be referred to the Court for advice;
  - (b) to advise any other authority of the University in respect of any matter, which may be referred to the Court for advice; and
  - (c) to perform such other duties and exercise such other powers as may be assigned to it by the Visitor or under this Act.".

Amendment of section 28.

- **4.** For sub-sections (2), (3), (4), (5) and (6) of section 28 of the principal Act, the following sub-section shall be substituted, namely:
  - "(2) The Executive Council may make new or additional Statutes or may amend or repeal the Statutes; but every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the previous approval of the Visitor who may sanction or disallow it or return it to the Executive Council for further consideration."

Amendment of section 29.

- 5. For sub-sections (4), (5), (6) and (7) of section 29 of the principal Act, the following sub-sections shall be substituted, namely:—
  - "(4) Where the Executive Council has rejected the draft of an Ordinance proposed by the Academic Council, the Academic Council may appeal to the Visitor who may pass such order thereon as he thinks it.
  - (5) Every Ordinance made by the Executive Council shall be submitted, as soon as may be, to the Visitor who may within two months from the date of receipt thereof disallow any such Ordinance or return it to the Executive Council for further consideration.

section 31.

tion for section 34.

section 35.

ment of

Statutes.

of two months from the date of such order.".

(6) The Visitor may, by order, direct that the operation of any

6. In section 31 of the principal Act, the proviso to sub-section (3) Amend-

7. For section 34 of the principal Act, the following section shall Substi-

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

9. In section 38 of the principal Act, in sub-section (2), the words Amendbeginning with ": provided that" and ending with "meeting of the section 38.

10. Notwithstanding anything contained in the principal Act, the Amend-

(i) in clause (2) of Statute 4, the word "ordinarily" shall be

(a) for clauses (1), (2) and (3), the following clauses

"(1) The Treasurer shall be appointed by the Executive Council and shall be a whole-time officer of the Uni-

(2) The terms and conditions of service of the Treasurer shall be such as may be prescribed by the Ordi-

under the direction of the Executive Council and shall be submitted to the Visitor on or before such date as may be prescribed

"34. The annual report of the University shall be prepared Annual

Ordinance shall be suspended until he has had an opportunity of exercising his power of disallowance, and any order of suspension under this sub-section shall cease to have effect on the expiration

Sec. 11

shall be omitted.

be substituted, namely:-

by the Statutes.".

Court" shall be omitted.

(ii) in Statute 5,—

versity.

nances.";

shall be substituted, namely:-

omitted;

omitted.

' 11

shall be omitted;

(b) in clause (5),—

Statutes of the University shall be amended as follows: --

(A) in sub-clause (a), the words "and the Court"

- (B) in sub-clause (d), for the word "convene", the word "attend" shall be substituted;
- (iii) in Statute 6, after clause (3), the following clause shall be inserted, namely:—
  - "(4) (a) 'The Registrar shall have power to take disciplinary action against the employees belonging to the ministerial staff and to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or the withholding of increment:

Provided that no such penalty shall be imposed unless the person concerned has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

- (b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing the penalty of the withholding of increment.
- (c) In a case where the inquiry discloses that a punishment beyond the powers of the Registrar is called for, the Registrar shall, upon conclusion of the inquiry, make a report to the Vice-Chancellor along with his recommendations, for such action as the Vice-Chancellor deems fit.";
- (iv) for Statute 8, the following Statute shall be substituted, namely:—
  - "8. (1) The Court shall consist of the following members, namely:—
    - (a) the Chancellor, ex officio,
    - (b) the Pro-Chancellor, ex officio,
    - (c) the members of the Executive Council, ex officio,
    - (d) three persons, being Heads of Departments of Studies or Principals of Colleges of the University, nominated by the Visitor,
    - (e) two persons, being Professors from Departments of Studies or Colleges of the University, nominated by the Visitor,
    - (f) two persons from among teachers of the University other than Professors, nominated by the Visitor,

The Court.

- (g) three representatives of Parliament, two to be nominated by the Speaker of the House of the People from among the members thereof and one to be nominated by the Chairman of the Council of States from among the members thereof, and
- (h) thirty persons nominated by the Visitor from among persons who are men of standing in public life or have special knowledge or practical experience in education or have rendered eminent services in the cause of education.
- (2) All members of the Court, other than ex officio members, shall hold office for a term of three years.
- (3) Seventeen members of the Court shall form a quorum.";
- (v) Statute 13 shall be omitted;
- (vi) in Statute 14, in clause (1),—
- (a) for the word "Court", the words "Executive Council" shall be substituted;
- (b) in sub-clause (a), the words "through the Executive Council" shall be omitted;
- (c) in sub-clause (b), the words "on the recommendation of the Executive Council," shall be omitted;
- (vii) for Statute 15, the following Statute shall be substituted, namely:—
  - "15. (1) The Executive Council shall consist of the follow- The Executive members, namely:—

    Council.
    - (a) the Vice-Chancellor, ex officio,
    - (b) seven persons nominated by the Visitor, and
    - (c) one person nominated by the Chief Rector in his discretion.
  - (2) All members of the Executive Council, other than ex officio members, shall hold office for a term of three years.
  - (3) Five members of the Executive Council shall form a quorum.";
  - (viii) in Statute 16,—
  - (a) in clause (1), for the word "Court", the word "Visitor" shall be substituted, and the words "not otherwise provided for" shall be omitted;

- (b) in clause (2),—
- (A) for sub-clause (ii), the following sub-clause shall be substituted, namely:—
  - "(ii) to appoint members of the administrative staff;";
- (B) after sub-clause (ii-A), the following sub-clause shall be inserted, namely:—
  - "(ii-B) to regulate and enforce discipline among members of the teaching, administrative and ministerial staff of the University in accordance with these Statutes and the Ordinances;";
- (C) in sub-clause (viii), the words ", otherwise than by an act of the Court" shall be omitted;
- (D) in clause (xii), the word "and" occurring at the end shall be omitted;
- (E) after sub-clause (xii), the following sub-clause shall be inserted, namely:—
  - "(xii-A) to delegate any of its powers to the Vice-Chancellor, the Registrar or such other officer or authority of the University or to a Committee appointed by it as it may deem fit; and";

#### (ix) in Statute 18,--

- (a) in item (i), the words "the Court or" shall be omitted;
- (b) in item (x), for the word "Court", the words "Executive Council" shall be substituted;

#### (x) in Statute 19A,—

- (a) in clause (1),—
- (A) for item (iv), the following item shall be substituted, namely:—
  - "(iv) one person who is not an employee of the University, appointed by the Executive Council;";
  - (B) item (v) shall be omitted;
- (b) in clause (2), for the word "Three", the word "Two" shall be substituted;

(c) in clause (4), the words "In the absence of the Vice-Chancellor, the Treasurer shall preside at a meeting thereof." shall be omitted;

#### (xi) in Statute 25A,—

- (a) in clause (2), for the words "contained in the terms of his appointment,", the words "to the contrary contained in the terms of his contract of service or of his appointment" shall be substituted and the proviso shall be omitted;
- (b) after clause (2), the following clause shall be inserted, namely:—
  - "(3) (a) Notwithstanding anything contained in the terms of his contract of service or of his appointment, the Executive Council shall be entitled to dismiss a teacher on grounds of misconduct, but save as aforesaid, the Executive Council shall not be entitled to determine the employment of a teacher save for good cause and after giving three months' notice in writing or payment of three months' salary in lieu of such notice.
  - (b) The determination of a teacher's employment shall require a two-thirds majority of the members of the Executive Council present and voting.
  - (c) The Vice-Chancellor may suspend a teacher against whom any misconduct is alleged and shall report the case to the next meeting of the Executive Council, but before any orders for dismissal are passed, the teacher shall be informed of the allegations made against him and shall be given a reasonable opportunity of making such representations to the Executive Council or to any Committee thereof appointed for the purpose, as he may desire to make.
  - (d) Any dismissal on the ground of misconduct shall take effect on the date on which the teacher was first suspended.
  - (e) Before a notice is given or payment is made to the teacher under sub-clause (a), he shall be informed by the Executive Council of the cause of the action proposed to be taken against him and shall be given a reasonable



opportunity of making such representations to the Executive Council or to any Committee thereof appointed for the purpose, as he may desire to make.

- (f) Notwithstanding anything contained in the Statutes, the teacher may at any time terminate his employment by giving the Executive Council three months' notice in writing.";
- (xii) Statute 28 shall be omitted.

Transitional provisions. 11. (1) Every person holding office as a member of the Court or the Executive Council, as the case may be, immediately before the commencement of this Ordinance, shall on such commencement cease to hold office as such:

Provided that where any such person holds immediately before such commencement any other office in the University, nothing contained in this sub-section shall be construed to affect his continuance in such other office.

(2) Until the Court is constituted in accordance with the provisions of section 3 read with clause (iv) of section 10 or the Executive Council is constituted in accordance with the provisions of clause (vii) of section 10, the Visitor may, by general or special order, direct any officer of the University to exercise the powers and perform the duties conferred or imposed by or under the principal Act as amended by this Ordinance on the Court or the Executive Council, as the case may be.

S. RADHAKRISHNAN,

President.

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S. P. SEN-VARMA, Special Secy. to the Govt. of India.

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# THE PAYMENT OF BONUS ORDINANCE, 1965

No. 3 of 1965

(Published in a Gazette of India, Extraordinary, Part II, Section 1, dated the 29th May, 1965)



Promulgated by the President in the Sixteenth Year of the Republic of India

An Ordinance to provde for the payment of bonus to persons employed in certain establishments and for matters connected therewith.

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 Payment of Bonus Short title, Ordinance, 1965.

Short title, Extent, Commercement and application.

- (2) It extends to the whole of India except the State of Jammu and Kashmir.
  - (3) It shall come into force at once.
  - (4) Save as otherwise provided, it shall apply to—
    - (a) every factory; and
  - (b) every other establishment in which twenty or more persons are employed on any day during an accounting year, in respect of the accounting year commencing on any day in the year 1964, and in respect of every subsequent accounting year,

(5) An establishment to which this ordinance applies under clause (b) of sub-section (4) shall continue to be governed by this Ordinance notwithstanding that the number of persons employed therein falls below twenty.

Definitions.

- 2 In this Ordinance, unless the context otherwise requires,—
  - (1) "accounting year" means—
  - (i) in relation to a corporation, the year ending on the day on which the books and accounts of the corporation are to be closed and balanced;
  - (ii) in relation to a company, the period in respect of which any profit and loss account of the company laid before it in annual general meeting is made up, whether that period is a year or not;
    - (iii) in any other case-
      - (a) the year commencing on the 1st day of April; or
    - (b) if the accounts of an establishment maintained by the employer thereof are closed and balanced on any day other than the 31st day of March, then, at the option of the employer, the year ending on the day on which its accounts are so closed and balanced:

Provided that an option once exercised by the employer under paragraph (b) of this sub-clause shall not again be exercised except with the previous permission in writing of the prescribed authority and upon such conditions as that authority may think fit:

- (2) "agricultural income" shall have the same meaning as in the Income-tax Act;
- (3) "agricultural income-tax law" means any law for the time being in force relating to the levy of tax on agricultural income;
  - (4) "allocable surplus" means—
  - (a) in relation to an employer, being a company (other than a banking company) which has not made the arrangements prescribed under the Income-tax Act for the declaration and payment within India of the dividends payable out of its profits in accordance with the provisions of section 194 of that Act, sixty-seven per cent. of the available surplus in an accounting year;

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(b) in any other case, sixty per cent. of such available surplus,

and includes any amount treated as such under the first proviso to sub-section (1) of section 34;

- (5) "appropriate Government" means—
- (i) in relation to an establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947, is the Central Government, the Central Government;
- (ii) in relation to any other establishment, the Government of the State in which that other establishment is situate;
- (6) "available surplus" means the available surplus computed under section 5;
- (7) "award" means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Tribunal constituted under the Industrial Disputes Act, 1947, or by any other authority constituted under any corresponding law relating to investigation and settlement of industrial disputes in force in a State and includes an arbitration award made under section 10A of that Act or under that law;
- (8) "banking company" means a banking company as defined in section 5 of the Banking Companies Act, 1949, and includes the State Bank of India, any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, and any other banking institution which may be notified in this behalf by the Central Government;
- (9) "company" means any company as defined in section 3 of the Companies Act, 1956, and includes a foreign company within the meaning of section 591 of that Act;
- (10) "co-operative society" means a society registered or deemed to be registered under the Co-operative Societies Act, 1912, or any other law for the time being in force in any State relating to co-operative societies;
- (11) "corporation" means any body corporate established by or under any Central, Provincial or State Act but does not include a company or a co-operative society;

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- (12) "direct tax" means-
  - (a) any tax chargeable under-
    - (i) the Income-tax Act;
    - (ii) the Super Profits Tax Act, 1963;
    - (iii) the Companies (Profits) Surtax Act, 1964;
    - (iv) the agricultural income-tax law; and
- (b) any other tax which, having regard to its nature or incidence, may be declared by the Central Government, by notification in the Official Gazette, to be a direct tax for the purposes of this Ordinance;
- (13) "employee" means any person (other than an apprentice) employed on a salary or wage not exceeding one thousand and six hundred rupees per mensem in any industry to do any skilled or unskilled manual, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied;

### (14) "employer" includes-

- (i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948, the person so named; and 63 of 1948.
- (ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager, managing director or managing agent; such manager, managing director or managing agent;
- (15) "establishment in private sector" means any establishment other than an establishment in public sector;
- (16) "establishment in public sector" means an establishment owned, controlled or managed by—
  - (a) a Government company as defined in section 617 of 1 of 1956, the Companies Act, 1956:
  - (b) a corporation which is owned, controlled or managed by the Government or the Reserve Bank of India;

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- (c) a corporation in which not less than forty per cent. of its capital is held (whether singly or taken together) by—
  - (i) the Government; or
  - (ii) the Reserve Bank of India; or
  - (iii) a corporation owned by the Government or the Reserve Bank of India;
- (17) "factory" shall have the same meaning as in clause (m) of section 2 of the Factories Act, 1948;
- (18) "gross profits" means the gross profits calculated under section 4;
  - (19) "Income-tax Act" means the Income-tax Act, 1961;
- (20) "prescribed" means prescribed by rules made under this Ordinance;
- (21) "salary or wage" means all remuneration (other than remuneration in respect of over-time work) capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to an employee in respect of his employment or of work done in such employment and includes dearness allowance (that is to say, all cash payments, by whatever name called, paid to an employee on account of a rise in the cost of living), but does not include—
  - (i) any other allowance which the employee is for the time being entitled to;
  - (ii) the value of any house accommodation or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles;
    - (iii) any travelling concession;
  - (iv) any bonus (including incentive, production and attendance bonus);
  - (v) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the employee under any law for the time being in force;
  - (vi) any retrenchment compensation or any gratuity or other retirement benefit payable to the employee or any  $ex\ gratia$  payment made to him;
    - (vii) any commission payable to the employee.

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Explanation.—Where an employee is given in lieu of the whole or part of the salary or wage payable to him, free food allowance or free food by his employer, such food allowance or the value of such food shall, for the purpose of this clause, be deemed to form part of the salary or wage of such employee;

(22) words and expressions used but not defined in this Ordinance and defined in the Industrial Disputes Act, 1947 <sup>14</sup> of 1947 shall have the meanings respectively assigned to them in that Act.

Establishments to include departments, undertaking and branches.

3. Where an establishment consists of different departments or undertakings or has branches, whether situated in the same place or in different places, ell such departments or undertakings or branches shall be treated as parts of the same establishment for the purpose of computation of bonus under this Ordinance:

Provided that where for any accounting year a separate balance-sheet and profit and loss account are prepared and maintained in respect of any such department or undertaking or branch, then, such department or undertaking or branch shall be treated as a separate establishment for the purpose of computation of bonus under this Ordinance for that year, unless such department or undertaking or branch was, immediately before the commencement of that accounting year treated as part of the establishment for the purpose of computation of bonus.

Computation of gross profits.

- 4. The gross profits derived by an employer from an establishment in respect of any accounting year shall—
  - (a) in the case of a banking company, be calculated in the manner specified in the First Schedule;
  - (b) in any other case, be calculated in the manner specified in the Second Schedule.

Computation of available surplus.

5. The available surplus in respect of any accounting year shall be the gross profits for that year after deducting therefrom the sums referred to in section 6.

Sums deductible from gross profits.

- 6. The following sums shall be deducted from the gross profits as prior charges, namely:—
  - (a) any amount by way of depreciation admissible in accordance with the provisions of sub-section (1) of section 32 of the Income-tax Act, or in accordance with the provisions of the agricultural income-tax law, as the case may be:

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Provided that where an employer has been paying bonus to his employees under an award, settlement or agreement made before the commencement of this Ordinance and subsisting at such commencement after deducting from the gross profits national normal depreciation, then, the amount of depreciation to be deducted under this clause shall, at the option of such employer (such option to be exercised once and within one year of the commencement of this Ordinance) continue to be such national normal depreciation;

- (b) any amount by way of development rebate or development allowance which the employer is entitled to deduct from his income under the Income-tax Act:
- (c) subject to the provisions of section 7, any direct tax which the employer is liable to pay for the accounting year in respect of his income, profits and gains during that year;
- (d) such further sums as are specified in respect of the employer in the Third Schedule.
- 7. For the purpose of clause (c) of section 6, any direct tax payable Calculation by the employer for any accounting year shall, subject to the following Payable ing provisions, be calculated at the rates applicable to the income of by the employer for that year, namely:—
  - (a) in calculating such tax no account shall be taken of—
  - (i) any loss incurred by the employer in respect of any previous accounting year and carried forward under any law for the time being in force relating to direct taxes;
  - (ii) any arrears of depreciation which the employer is entitled to add to the amount of the allowance for depreciation for any following accounting year or years under subsection (2) of section 32 of the Income-tax Act;
  - (iii) any exemption conferred on the employer under section 84 of the Income-tax Act or of any deduction to which he is entitled under sub-section (1) of section 101 of that Act, as in force immediately before the commencement of the Finance Act, 1965;
  - (b) where the employer is a religious or a charitable institution to which the provisions of section 32 do not apply and the whole or any part of its income is exempt from tax under the Income-tax Act, then, with respect to the income so exempted, such institution shall be treated as if it were a company in which

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the public are substantially interested within the meaning of that Act:

- (c) where the employer is an individual or a Hindu undivided ed family, the tax payable by such employer under the Incometax Act shall be calculated on the basis that the income derived by him from the establishment is his only income;
- (d) where the income of any employer includes any profits and gains derived from the export of any goods or merchandise out of India and any rebate on such income is allowed under any law for the time being in force relating to direct taxes, then, no account shall be taken of such rebate;
- (e) no account shall be taken of any rebate (other than development rebate or development allowance) or credit or relief or deduction (not hereinbefore mentioned in this section) in the payment of any direct tax allowed under any law for the time being in force relating to direct taxes or under the relevant annual Finance Act, for the development of any industry.

Eligibility for bonus. 8. Every employee shall be entitled to be paid by his employer in an accounting year, bonus, in accordance with the provisions of this Ordinance, provided he has worked in the establishment for not less than thirty working days in that year.

Disqualification for bonus,

- 9. Notwithstanding anything contained in this Ordinance, an employee shall be disqualified from receiving bonus under this Ordinance, if he is dismissed from service for—
  - (a) fraud; or
  - (b) riotous or violent behaviour while on the premises of the establishment; or
  - (c) theft, misappropriation or sabotage of any property of the establishment.

Payment of minimum bonus.

10. Every employer shall be bound to pay to every employee who has worked in the establishment for all the working days in an accounting year a minimum bonus which shall be four per cent of the salary or wage of the employee for the accounting year or forty rupees, whichever is higher, whether there are profits in the accounting year or not:

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Provided that where such employee has not completed fifteen years of age at the beginning of the accounting year, the provisions of this section shall have effect in relation to such employee as if for the words "forty rupees", the words "twenty-five rupees" were substituted.

11. (1) Where in respect of any accounting year the allocable Payment of surplus exceeds the amount of minimum bonus payable to the maxim bonus. employees under section 10, the employer shall, in lieu of such minimum bonus, be bound to pay bonus to every employee who has worked in the establishment for all the working days in the accounting year which shall be an amount in proportion to the salary or wage of the employee for the accounting year subject to a maximum of twenty per cent. of such salary or wage.

- (2) In computing the allocable surplus under this section, the amount set on or the amount set off under the provisions of section 15 shall be taken into account in accordance with the provisions of that section.
- 12. Where the salary or wage of an employee exceeds seven hun- Calculation dred and fifty rupees per mensem, the bonus payable to such employee with resunder section 10 or, as the case may be, under section 11, shall be pect to calculated as if his salary or wage were seven hundred and fifty employees. rupees per mensem.

13. Where an employee has not worked for all the working days Proportionin any accounting year, the amount of bonus to which he shall be duction of entitled under section 10 or, as the case may be, under section 11, bonus in shall be proportionately reduced.

certain cases.

14. In computing for the purposes of sections 10 and 11 the number Computation of days on which an employee has worked in an establishment in of working any accounting year, the days on which-

- (a) he has been laid off under an agreement or as permitted by standing orders under the Industrial Employment (Standing Orders) Act, 1946, or under the Industrial Disputes Act, 1947, or under any other law applicable to the establishment;
  - (b) he has been on leave with salary or wage;
- (c) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and
- (d) the employee has been on maternity leave with salary or wage,

during the accounting year shall be included.

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Set on and set off of allocable surplus.

- 15. (1) Where for any accounting year the allocable surplus exceeds the amount of maximum bonus payable to the employees in the establishment under section 11, then, the excess shall, subject to a limit of twenty per cent. of the total salary or wage of the employees employed in the establishment in that accounting year, be carried forward for being set on in the succeeding accounting year and so on up to and inclusive of the fourth accounting year to be utilised for the purpose of payment of bonus in the manner illustrated in the Fourth Schedule.
- (2) Where for any accounting year, there is no available surplus or the allocable surplus in respect of that year falls short of the amount of minimum bonus payable to the employees in the establishment under section 10, and there is no amount or sufficient amount carried forward and set on under sub-section (1) which could be utilised for the purpose of payment of the minimum bonus, then, such minimum amount or the deficiency, as the case may be, shall be carried forward for being set off in the succeeding accounting year and so on up to and inclusive of the fourth accounting year in the manner illustrated in the Fourth Schedule.
- (3) The principle of set on and set off as illustrated in the Fourth Schedule shall apply to all other cases not covered by sub-section (1) or sub-section (2) for the purpose of payment of bonus under this Ordinance:
- (4) Where in any accounting year any amount has been carried forward and set on or set off under this section, then, in calculating bonus for the succeeding accounting year, the amount of set on or set off brought forward from the earliest accounting year shall first be taken into account.

Special provisions with respect to certain establishments.

- 16. (1) Where an establishment is newly set up, whether before or after the commencement of this Ordinance, the employees of such establishment shall be entitled to be paid bonus under this Ordinance only—
  - (a) from the accounting year in which the employer derives profit from such establishment; or
  - (b) from the sixth accounting year following the accounting year in which the employer sells the products manufactured by him or renders services, as the case may be, from such establishment,

whichever is earlier:

Provided that nothing in this sub-section shall, save as otherwise provided in section 33, be construed as entitling the employees of any such establishment to be paid bonus in respect of any accounting year prior to the accounting year commencing on any day in the year 1964.

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or rst Explanation I.—For the purpose of this section, an establishment shall not be deemed to be newly set up merely by reason of a change in its location, management, name or ownership.

Explanation II.—For the purpose of clause (a), an employer shall not be deemed to have derived profit in any accounting year unless—

- (a) he has made provision for that year's depreciation to which he is entitled under the Income-tax Act or, as the case may be, under the agricultural income-tax law; and
- (b) the arrears of such depreciation and losses incurred by him in respect of the establishment for the previous accounting years have been fully set off against his profits.

Explanation III.—For the purpose of clause (b), sale of the articles produced or manufactured during the course of the trial run of any factory or of the prospecting stage of any mine or an oil-field shall not be taken into consideration and where any question arises with regard to such production or manufacture, the decision of the appropriate Government, made after giving the parties a reasonable opportunity of representing the case, shall be final and shall not be called in question by any court or other authority.

(2) The provisions of sub-section (1) shall, so far as may be, apply to new departments or undertakings or branches set up by existing establishments:

Provided that if an employer in relation to an existing establishment consisting of different departments or undertakings or branches (whether or not in the same industry) set up at different periods has, before the commencement of this Ordinance, been paying bonus to the employees of all such departments or undertakings or branches irrespective of the date on which such departments or undertakings or branches were set up, on the basis of the consolidated profits computed in respect of all such departments or undertakings or branches, then, such employer shall be liable to pay bonus in accordance with the provisions of this Ordinance to the employees of all such departments or undertakings or branches (whether set up before or after such commencement) on the basis of the consolidated profits computed as aforesaid.

#### 17. Where in any accounting year-

- (a) an employer has paid any puja bonus or other customary or interim bonus to an employee; or
- (b) an employer has paid a part of the bonus payable under this Ordinance to an employee before the date on which such the bonus becomes payable,

Adjustment of customary or interim bonus against bonus payable under the Ordinance.

then, the employer shall be entitled to deduct the amount of bonus so paid from the amount of bonus payable by him to the employee under this Ordinance in respect of that accounting year and the employee shall be entitled to receive only the balance.

Deduction of certain amounts from bonus payable under the O dinance.

18. Where in any accounting year, an employee is found guilty of misconduct causing financial loss to the employer, then, it shall be lawful for the employer to deduct the amount of loss from the amount of bonus payable by him to the employee under this Ordinance in respect of that accounting year only and the employee shall be entitled to receive the balance, if any.

Time-limit for payment of bonus.

- 19. All amounts payable to an employee by way of bonus under this Ordinance shall be paid in cash by his employer-
  - (a) where there is a dispute regarding payment of bonus pending before any authority under section 22, within a month of the settlement or award in respect of such dispute;
  - (b) in any other case, within a period of eight months from the close of the accounting year:

Provided that the appropriate Government or such authority as the appropriate Government may specify in this behalf may, upon an application made to it by the employer and for sufficient reasons, by order, extend the said period of eight months to such further period or periods as it thinks fit; so, however, that the total period so extended shall not in any case exceed two years.

Application to establishments in public sector in certain C8838

- 20. (1) If in any accounting year an establishment in public sec-Of Ordinance tor sells any products manufactured by it or renders any services, in competition with an establishment in private sector, and the income from such sale or services or both is not less than twenty per cent. of the gross income of the establishment in public sector for that year, then, the provisions of this Ordinance shall apply in relation to such establishment in public sector as they apply in relation to a like establishment in private sector.
  - (2) An establishment in public sector to which this Ordinance applies shall continue to be governed by this Ordinance notwithstanding that in any subsequent accounting year its income from the sale of products manufactured by it or from services rendered or from both, in competition with an establishment in private sector, falls below twenty per cent. of its gross income for that accounting year,

21. Where any money is due to an employee by way of bonus from Recovery of his employer under a settlement or an award, the employee himself bonus due from an or any other person authorised by him in writing in this behalf, or employer. in the case of the death of the employee, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government or such authority as the appropriate Government may specify in this behalf is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue:

Provided that every such application shall be made within one year from the date on which the money became due to the employee from the employer:

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

Explanation,—In this section and in sections 22, 23, 24 and 25. "employee" includes a person who is entitled to the payment of bonus under this Ordinance but who is no longer in employment.

22. Where any dispute or difference arises between an employer Reference and his employees with respect to the calculation of bonus of disputes under the under this Ordinance or with respect to the application of this Ordinance. Ordinance to an establishment in public sector, then, such dispute shall be deemed to be an industrial dispute within the meaning of the Industrial Disputes Act, 1947, or of any corresponding law relating to investigation and settlement of industrial disputes in force in a State and the provisions of that Act or, as the case may be, such law, shall, save as otherwise expressly provided, apply accordingly.

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23. (1) Where, during the course of proceedings before any arbi-Presumption trator or Tribunal under the Industrial Disputes Act, 1947, or under racy of any corresponding law relating to investigation and settlement of balance-sheet and industrial disputes in force in a State (hereinafter in this section profit and and in sections 24 and 25 referred to as the "said authority") to which of corporaany dispute or difference of the nature specified in section 22 has tions and been referred, the balance-sheet and the profit and loss account of an employer, being a corporation or a company (other than a banking company), duly audited by the Comptroller and Auditor-General of India or by auditors duly qualified to act as auditors of companies

under sub-section (1) of section 226 of the Companies Act, 1956, are 1 of 1956 produced before it, then, the said authority may presume the statements and particulars contained in such balance-sheet and profit and loss account to be accurate and it shall not be necessary for the corporation or the company to prove the accuracy of such statements and particulars by the filing of an affidavit or by any other mode:

Provided that where the said authority is satisfied that the statements and particulars contained in the balance-sheet or the profit and loss account of the corporation or the company are not accurate, it may take such steps as it thinks necessary to find out the accuracy of such statements and particulars.

(2) When an application is made to the said authority by any trade union being a party to the dispute or difference or where there is no trade union, by the employees being a party to the dispute or difference, requiring any clarification relating to any item in the balance-sheet or the profit and loss account, it may, after satisfying itself that such clarification is necessary, by order, direct the corporation or, as the case may be, the company, to furnish to the trade union or the employees such clarification within such time as may be specified in the direction and the corporation or, as the case may be, the company, shall comply with such direction.

Audited accounts of banking companies not to be questioned.

- 24. (1) Where any dispute or difference of the nature specified in section 22 between an employer, being a banking company, and its employees has been referred to the said authority under that section and during the course of proceedings the accounts of the banking company duly audited are produced before it, the said authority shall not permit any trade union or employees to question the correctness of such accounts, but the trade union or the employees may be permitted to obtain from the banking company such information as is necessary for verifying the amount of bonus due under this Ordinance.
- (2) Nothing contained in sub-section (1) shall enable the trade union or the employees to obtain any information which the banking company is not compelled to furnish under the provisions of section 34A of the Banking Companies Act, 1949.

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Audit of accounts of employers, not being corporations or companies.

25. (1) Where any dispute or difference of the nature specified in section 22 between an employer, not being a corporation or a company, and his employees has been referred to the said authority under that section and the accounts of such employer audited by any auditor duly qualified to act as auditor of companies under sub-section (1) of section 226 of the Companies Act, 1956, are produced before the 1 of 1956.

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said authority, the provisions of section 23, shall, so far as may be, apply to the accounts so audited.

- (2) When the said authority finds that the accounts of such employer have not been audited by any such auditor and it is of opinion that an audit of the accounts of such employer is necessary for deciding the question referred to it, then, it may, by order, direct the employer to get his accounts audited within such time as may be specified in the direction or within such further time as it may allow by such auditor or auditors as it thinks fit and thereupon the employer shall comply with such direction.
- (3) Where an employer fails to get the accounts audited under sub-section (2) the said authority may, without prejudice to the provisions of section 28, get the accounts audited by such auditor or auditors as it thinks fit.
- (4) When the accounts are audited under sub-section (2) or subsection (3) the provisions of section 23 shall, so far as may be, apply to the accounts so audited.
- (5) The expenses of, and incidental to, any audit under sub-section (3) (including the remuneration of the auditor or auditors) shall be determined by the said authority (which determination shall be final) and paid by the employer and in default of such payment shall be recoverable from the employer in the manner provided in section 21.
- 26. Every employer shall prepare and maintain such registers, Maintenance records and other documents in such form and in such manner as of registers, etc. may be prescribed.
- 27. (1) The appropriate Government may, by notification in the Inspectors. Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Ordinance and may define the limits within which they shall exercise jurisdiction.
- (2) An Inspector appointed under sub-section (1) may, for the purpose of ascertaining whether any of the provisions of this Ordinance has been complied with-
  - (a) require an employer to furnish such information as he may consider necessary;
  - (b) at any reasonable time, enter any establishment or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of salary or wage or bonus in the establishment;

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- (c) examine with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be or to have been an employee in the establishment;
- (d) make copies of, or take extracts from, any book, register or other document maintained in relation to the establishment:
  - (e) exercise such other powers as may be prescribed.
- (3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code.

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- (4) Any person required to produce any accounts, book, register or other document or thing or to give information by an Inspector under sub-section (1) shall be legally bound to do so.
- (5) Nothing contained in this section shall enable an Inspector to require a banking company to furnish or disclose any statement or information or to produce, or give inspection of, any of its books of account or other documents, which a banking company cannot be compelled to furnish, disclose, produce or give inspection of, under the provisions of section 34A of the Banking Companies Act, 1949.

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Penalty.

# 28. If any person-

- (a) contravenes any of the provisions of this Ordinance or any rule made thereunder; or
- (b) to whom a direction is given or a requisition is made under this Ordinance fails to comply with the direction or requisition,

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

Offences by companies.

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

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. 44 01 195

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(2) Notwithstanding anything contained in sub-section (1), where an 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 also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.
- 30. (1) No court shall take cognizance of any offence punishable Cognizance under this Ordinance, save on complaint made by or under the of offences. authority of the appropriate Government.
- (2) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Ordinance.
- 31. No suit, prosecution or other legal proceeding shall lie against Protection the Government or any officer of the Government for anything which of action taken under is in good faith done or intended to be done in pursuance of this the Ordinance or any rule made thereunder.

Ordinance

**32**. Nothing in this Ordinance shall apply to—

Ordinance employees.

(i) employees employed by any insurer carrying on general apply to insurance business and the employees employed by the Life classes of Insurance Corporation of India;

- (ii) seamen as defined in clause (42) of section 3 of the Merchant Shipping Act, 1958;
- (iii) employees registered or listed under any scheme made under the Dock Workers (Regulation of Employment) Act, 1948, and employed by registered or listed employers;
- (iv) employees employed in an establishment engaged in any industry carried on by or under the authority of any department of the Central Government or a State Government or a local authority;
  - (v) employees employed by
  - (a) the Indian Red Cross Society or any other institution of a like nature (including its branches);

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- (b) universities and other educational institutions; and
- (c) institutions (including hospitals, chambers of commerce and social welfare institutions) established not for purposes of profit;
- (vi) employees employed through contractors on operations;

# (vii) employees—

- (a) who have entered before the commencement of this Ordinance, into any agreement or settlement with their employers for payment of an annual bonus linked with production or productivity in lieu of bonus based on profits; or
- (b) who may enter after such commencement into any agreement or settlement with their employers for payment of such annual bonus in lieu of the bonus payable under this Ordinance.

for the period for which such agreement or settlement is in operation;

- (viii) employees employed by the Reserve Bank of India;
- (ix) employees employed by—
  - (a) the Industrial Finance Corporation of India;
- (b) any Financial Corporation established under section 3, or any Joint Financial Corporation established under section 3A, of the State Financial Corporations Act. 1951;
  - (c) the Deposit Insurance Corporation;
  - (d) the Agricultural Refinance Corporation;
  - (e) the Unit Trust of India; and
  - (f) the Industrial Development Bank of India;
- (x) employees employed in any establishment in public sector, save as otherwise provided in this Ordinance.

Ordinance to apply certain pending disputes regarding; payment of bonus.

33. Where immediately before the 2nd September, 1964, any industrial dispute regarding payment of bonus relating to any accounting year ending on any day in the year 1962, and any subsequent accounting year was pending before the appropriate Government or before any Tribunal or other authority constituted under the Industrial Disputes Act, 1947, or under any corresponding law re- 14 ol/1 lating to investigation and settlement of industrial disputes in a State, such dispute shall be decided in accordance with the provisions of this Ordinance.

Explanation.—A dispute shall be deemed to be pending before the appropriate Government where no decision of that Government on any application made to it under the said Act or such corresponding law for reference of that dispute to adjudication has been made or where having received the report of the Conciliation Officer (by whatever designation known) under the said Act or law, the appropriate Government has not passed any order refusing to make such reference.

34. (1) Save as otherwise provided, the provisions of this Effect of Ordinance shall have effect notwithstanding anything inconsistent laws and agreetherewith contained in any other law for the time being in force ments inor in the terms of any award, agreement, settlement or contract of consisservice made before the commencement of this Ordinance:

tent with the Ordinance.

Provided that if in respect of any accounting year the total bonus payable to all the employees in any establishment under this Ordinance is less than the total bonus paid or payable to all the employees in that establishment in the base year under such award, agreement, settlement or contract of service, then, the employees in the establishment shall be paid bonus in respect of that accounting year as if the allocable surplus for that accounting year were an amount which bears the same ratio to the gross profits of the said accounting year as the total bonus paid or payable in the base year bears to the gross profits of the base year:

Provided further that nothing contained in the preceding proviso shall entitle any employee to be paid bonus exceeding twenty per cent. of his salary or wage for the accounting year:

Provided also that if in any accounting year the allocable surplus computed under the first proviso exceeds the amount of maxinium bonus payable to the employees in the establishment under the second proviso, then, the provisions of section 15 shall, so far as may be, apply to such excess.

Explanation I.—For the purpose of the first proviso to this subsection, the total bonus in respect of any accounting year shall be deemed to be less than the total bonus paid or payable in the base year if the ratio of bonus payable in the accounting year to the gross profits of that year is less than the ratio of bonus paid or mayable in the base year to the gross profits of that year.

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Explanation II.—In this sub-section,—

# (a) "base year" means—

- (i) in a case where immediately before the 2nd September, 1964, any dispute of the nature specified in section 33 was pending before the appropriate Government or before any Tribunal or other authority referred to in that section, the accounting year immediately preceding the accounting year to which the dispute relates;
- (ii) in any other case, the period of twelve months immediately preceding the accounting year in which this Ordinance becomes applicable to the establishment;
- (b) "gross profits" in relation to the base year or, as the case may be, to the accounting year, means gross profits as reduced by the direct taxes payable by the employer in respect of that year.
- (2) Nothing contained in this Ordinance shall be construed to preclude employees employed in any establishment or class of establishments from entering into agreement with their employer for granting them an amount of bonus undtr a formula which is dicerent from that under this Ordinance

Saving

35. Nothing contained in this Ordinance shall be deemed to affect the provisions of the Coal Mines Provident Fund and Bonus Schemes Act 1948, or of any scheme made thereunder.

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Power of exemption,

36. If the appropriate Government, having regard to the financial position and other relevant circumstances of any establishment or class of establishments, is of opinion that it will not be in public interest to apply all or any of the provisions of this Ordinance thereto; it may, by notification in the Official Gazette, exempt for such period as may be specified therein and subject to such conditions as it may think fit to impose, such establishment or class of establishments from all or any of the provisions of this Ordinance.

Power to remove difficulties

37. If any difficulty or doubt arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette, make such provision, not inconsistent with the purposes of this Ordinance as appears to it to be necessary or expedient for the removal of the difficulty or doubt; and the order of the Central Government, in such cases, shall be final.

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- 38. (1) The Central Government may make rules for the purpose Power to of carrying into effect the provisions of this Ordinance.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—
  - (a) the authority for granting permission under the proviso to sub-clause (iii) of clause (1) of section 2;
  - (b) the preparation of registers, records and other documents and the form and manner in which such registers, records and documents may be maintained under section 26;
  - (c) the powers which may be exercised by an Inspector under sub-section (2) of section 27;
    - (d) any other matter which is to be, or may be prescribed.
- 39. Save as otherwise expressly provided, the provisions of this of certain Ordinance shall be in addition to and not in derogation of the Indus-laws not trial Disputes Act, 1947, or any corresponding law relating to investigation and settlement of industrial disputes in force in a State.

### THE FIRST SCHEDULE

[See section 4 (a)]

COMPUTATION OF GROSS PROFITS

Accounting Year ending.....

Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks
		Rs.	Rs.	
*I.	Net Profit as shown in the Profit and Loss Account after making usual and necessary pro-			
	visions.			
2.	Add back provision for:			
	(a) Bonus			
	(b) Depreciation.	-		
	(c) Development Rebate Reserve.		\$	ee foot-note (1)
	(d) Any other reserves.		S	see foot-note (1)
	Total of Item No. 2	Rs.		

<sup>\*</sup>Where the profit subject to taxation is shown in the Profit and Loss Account and the provision made for taxes on income is shown, the actual provision for taxes on income shall be deducted from the profit.

Item Particulars Amount of Amount of Remarks
No. sub-items main items

Rs. Rs.

### 3. Add back also:

(a) Bonus paid in respect of previous accounting years.

See foot-note (1,

(b) Donations in excess of the amount admissible for income-tax.

See foot-note (1)

- (c) Capital expenditure (other than capital expenditure on scientific research which is allowed as deduction under any law for the time being in force relating to direct taxes) capital losses (other than losses on sale of capital assets which depreciation has been allowed for income-tax).
- (d) Any amount certified by the Reserve Bank of India in terms of sub-section (2) of section 34A of the Banking Companies Act, 1949.
- (e) Losses of, or expenditure relating to, any business situated outside India.

Total of Item No. 3

Rs.

- 4. Add also Income, profits or gains (if any) credited directly to published or disclosed reserves, other than—
  - (i) capital receipts and capital profits (including profits on the sale of capital

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Item **Particulars** Amount of Amount of Remarks No. sub-items main items Rs. Rs. assets on which de-preciation has not been allowed for income-tax); (ii) profits of, and receipts relating to, any business situated outside India; (iii) income of foreign banking companies from investments outside India. Net total of Item No. 4 Rs. Total of Item Nos. 1, 2, 3 Rs. and 4. 6. Deduct: (a) Capital receipts and See foot-note (2) capital profits (other than profits on the sale of assets on which depreciation has been allowed for income-tax). (b) Profits of, and re-See foot-note (2) to, ceipts relating any business situated outside India. (c) Income of foreign See foot-note (2) banking companies from investments outside India. (d) Expenditure or losses (if any) debited directly to published or disclosed reserves, other than-(i) capital expenditure and capital losses (other

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Item No.	Particulars	Amount of sub-items	Amount of main items	
····		Rs.	Rs.	
	than losses on sale of capital assets on which depre-			
	ciation has not been allowed for income-tax);			
	<ul><li>(ii) losses of any business situated outside India.</li></ul>			
	(e) In the case of foreign banking companies proportionate administrative (over-			See foot-note (
ş	head) expenses of Head Office allocable to Indian business.	· .		
	(f) Refund of any excess direct tax paid for previous accounting years and excess pro-			See foot-note (2
	vision, if any, of previous accounting years, relating to	e		
	bonus, depreciation, or development re- bate, if written back.			
	(g) Subsidy, if any, received from Govern- ment or from any		. •	See foot-note (2
	body corporate es- tablished by any			
	law for the time being in force.			*** **
	Total of Item No. 6	Rs.		
7•	Gross Profits for purposes of bonus (Item No. 5 minus			
	Item No. 6).		Rs.	

- (1) If, and to the extent, charged to Profit and Loss Account.
- (2) If, and to the extent, credited to Profit and Loss Account.
- (3) In the proportion of Indian Gross Profit (Item No. 7) to Total World Gross Profit (as per consolidated Profit and Loss Account; adjusted as in Item No. 2 above only).

# THE SECOND SCHEDULE

[See section 4 (b)]

### COMPUTATION OF GROSS PROFITS

Accounting Year ending.....

Particulars Amount of Remarks £tem Amount of No. sub-items main items Rs. Rs. Net Profit as per Profit and Loss Account. Add back provision for : (a) Bonus. (b) Depreciation. (c) Direct taxes, including the provision (if for previous accounting years. (d) Development rebate/ See foot-note (1) Development allowance reserve. (e) Any other reserves. See foot-note (1) Total of Item No. 2 Rs. Add back also : (a) Bonus paid in respect See foot-note (1) of previous accounting years. (b) Donations in excess of the amount admissible for income-tax. (c) Any annuity due, or commuted value of any annuity under the provisions of section 280D of the Income-tax Act duraccounting ing the year.

Item Particulars Amount of Amount of Remarks
No. sub-items main Items

Rs Rs.

- (d) Capital expenditure (other than capital expenditure scientific research which is allowed as a deduction under any law for the time being in force relating to direct taxes) and capital losses (other than losses on sale of capital assets which depreciation has been allowed for income-tax or agricultural income-tax).
- (e) Losses of, or expenditure relating to, any business situated outside India.

Total of Item No. 3 Rs.

- 4. Add also Income, profits or gains (if any) credited directly to reserves, other than—
  - (i) capital receipts and capital profits
     (including profits on the sale of capital assets on which depreciation has not been allowed for incometax or agricultural incometax);
  - (ii) profits of, and receipts relating to, any business situated outside India;

See foot-note (1)

Item Amount of Amount of Remarks **Particulars** main items No. sub-items Rs. Rs. (iii) income of foreign concerns from investments outside India. Net total of Item No. 4 Rs. Total of Item Nos. 1, 3 and 4. Rs. Deduct: (a) Capital receipts and See foot-note (2) capital profits (other than profits on the sale of assets on which depreciation has been allowed for income-tax or agricultural income-tax). (b) Profits of, and receipts See foot-note (2) relating to, any situated business outside India. See foot-note (2) (c) Income of foreign concerns from investments outside India. (d) Expenditure losses (if any) debited directly reserves, other than— (i) capital expenditure and capital losses (other than losses on sale of capital assets on which depre-

ciation has not been allowed for

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Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks
		Rs.	Rs.	
	income-tax or agricultural income-tax);			•
	(ii) losses of any business situated outside India.			
\$	(e) In the case of foreign concerns proportionate administrative (overhead) expenses of Head Office allocable to Indian business.		See	foot-note (3)
	(f) Refund of any direct tax paid for previous accounting years and excess provision, if any, of previous accounting years relating to lonus, depreciation, taxation or development rebate or development allowance, if written back.		Sec	? foot-note (2)
	(g) Subsidy, if any, received from Government or from any body corporate established by any law for the time being in force.			
	Total of Item No. 6	Rs.		

Foot-notes-

(1) If, and to the extent, charged to Profit and Loss Account

7. Gross Profits for purposes of bonus (Item No. 5

minus Item No. 6).

- (2) If, and to the extent, credited to Profit and Loss Account.
- (3) In the proportion of Indian Gross Profit (Item No. 7) to Total World Gross Profit (as per Consolidated Profit and Loss Account, adjusted as in Item No. 2 above only).

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### THE THIRD SCHEDULE

[See section 6(d)]

Item No.	Category of employer	Further sums to be deducted
(1)	(2)	(3)

- I. Company, other than a banking company.
- (i) The dividends payable on its preference share capital for the accounting year calculated at the actual rate at which such dividends are payable;
- (ii) 8.5 per cent. of its paid up equity share capital as at the commencement of the accounting year;
- (iii) 6 per cent, of its reserves shown in its balance-sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year:

Provided that where the employer is a foreign company within the meaning of section 591 of the Companies Act, 1956, the total amount to be deducted under this Item shall be 8.5 per cent. on the aggregate of the value of the net fixed assets and the current assets of the company in India after deducting the amount of its current liabilities (other than any amount shown as payable by the company to its Head Office whether towards any advance made by the Head Office or otherwise or any interest paid by the company to its Head Office) in India.

2. Banking company

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- (i) The dividends payable on its preference share capital for the accounting year calculated at the rate at which such dividends are payable;
- (ii) 7.5 per cent. of its paid up equity share capital as at the commencement of the accounting year;

Item No.	Category of employer	Further sums to be deducted
(1)	(2)	(3)

- (iii) 5 per cent. of its reserves shown in its balance-sheet as at commencement of the accounting year, including any profits carried forward from the previous accounting year;
- (iv) any sum which, in respect of the accounting year, is transferred by
  - (a) to a reserve fund under subsection (1) of section 17 of the Banking Companies Act, 1949; or
  - (b) to any reserves in India in pursuance of any direction or advice given by the Reserve Bank of India,

# whichever is higher:

Provided that where the banking company is a foreign company within the meaning of section 591 of the Companies Act, 1956, the amount 1 of 1956 to be deducted under this Item shall be the aggregate of-

- (i) the dividends payable to its preference shareholders for the accounting year at the rate at which such dividends are payable on such amount as bears the same proportion to its total preference share capital as its total working funds in India bear to its total world working funds;
- $(\ddot{i})$  7.5 per cent. on such amount as bears the same proportion to its total paid up equity share capital as its total working funds in India bear to its total world working funds;
- (iii) 5 per cent. on such amount as bears the same proportion to its total disclosed reserves as its total working funds in India bear to its total world working funds;

Item No.	Category of employer	Further sums to be deducted		
(1)	(2)	(3)		
		(iv) any sum which, in respect of the		

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(iv) any sum which, in respect of the accounting year, is deposited by it with the Reserve Bank of India under sub-clause (ii) of clause (b) of sub-section (2) of section II of the Banking Companies Act, 1949, not exceeding the amount required under the aforesaid provision to be so deposited.

3. Corporation

- (i) 8.5 per cent. of its paid up capital as at the commencement of the accounting year;
- (ii) 6 per cent. of its reserves, if any, shown in its balance-sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year.
- 4. Co-operative society
- (i) 8.5 per cent. of the capital invested by such society in its establishment as evidenced from its books of accounts at the commencement of the accounting year;
- (ii) such sum as has been carried forward in respect of the accounting year to a reserve fund under any law relating to co-operative societies for the time being in force.
- 5. Any other employer not 8.5 per cent. of the capital invested falling under any of by him in his establishment as the aforesaid categories. evidenced from his books of accounts at the commencement of the accounting year:
  - Provided that where such employer is a person to whom Chapter XXIIA of the Income-tax Act applies, the annuity deposit payable by him under the provisions of that Chapter during the accounting year shall also be deducted:

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Item No	Category of employer	Further sums to be deducted
(1)	(2)	(3)

Provided further that where employer is a firm, an amount equal to 25 per cent. of the gross profits derived by it from the establishment in respect of the accounting year depreciation after deducting accordance with the provisions of clause (a) of section 6 by way remuneration to all the partners taking part in the conduct of business of the establishment shall also be deducted, but where the partnership agreement, whether oral or written, provides for the payment of muneration to any such partner, and—

- (i) the total remuneration payable to all such partners is less than the said 25 per cent., the amount payable, subject to a maximum of forty-eight thousand rupees to each such partner; or
- (ii) the total remuneration payable to all such partners is higher than the said 25 per cent., such percentage, or a sum calculated at the rate of forty-eight thousand rupees to each such partner, whichever is less,

shall be deducted under this proviso:

Provided also that where such employer is an individual or a Hindu undivided family,—

- (i) an amount equal to 25 per cent. of the gross profits derived by such employer from the establishment in respect of the accounting year after deducting depreciation in accordance with the provisions of clause (a) of section 6; or
- (ii) forty-eight thousand rupees, whichever is less, by way of remuneration to such employer, shall also be deducted.

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Item No.	Category of employer	Further sums to be deducted
(1)	(2)	(3)

6. Any employer falling within

Item No. 1 or Item

No. 3 or Item No. 4 or

Item No. 5 being a

licensee within the meaning of the Electricity

Supply Act, 1948.

In addition to the sums deductible under any of the aforesaid Items, such sums as are required to be appropriated by the licensee in respect of the accounting year to a reserve under the Sixth Schedule to that Act shall also be deducted.

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ch nng on nis Explanation.—The expression "reserves" occurring in column (2) against Item Nos. 1(iii), 2(iii) and 3(ii) shall not include any amount set apart for the purpose of—

- (i) payment of any direct tax which, according to the balance-sheet, would be payable;
- (ii) meeting any depreciation admissible in accordance with the provisions of clause (a) of section 6;
- (iii) payment of dividends which have been declared, out shall include—
  - (a) any amount, over and above the amount referred to in clause (i) of this Explanation, set apart as specific reserve for the purpose of payment of any direct tax; and
  - (b) any amount set apart for meeting any depreciation in excess of the amount admissible in accordance with the provisions of clause (a) of section 6.

### THE FOURTH SCHEDULE

(See section 15)

In this Schedule, the total amount of bonus equal to four per cent. of the annual salary or wage payable to all the employees is assumed to be Rs. 50,000. Accordingly, the maximum bonus to which all the employees

Year

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are entitled to be paid (twenty per cent. of the annual salary or wage of all the employees) would be Rs. 2,50,000.

Year	Amount equal to sixty per cent. or sixty-seven per cent., as the case may be, of available surplus	Amount payable as bonus	Set on or set off of the year carried forward	Total or se carr forw	ied
	allocable as bonus		• ,		
(I)	(2)	(3)	(4)	(5)	
	Rs.	Rs.	Rs.	Rs.	of (year)
1.	170,000	70,000	Nil	Nil	***
2.	6,35,000	2,50,000*	Set on 2,50,000*	Set on 2,50,000	(2)
- <b>3</b> .	` <b>2,20,00</b> 0	2,50,000* (inclusive of 30,000 from year	Nil -2)	Set on 2,20,000	(2)
4.5	3,75,000	2,50,000*	Set on 1,25,000	Set on 2,20,000 1,25,000	(2) (4)
5: <u></u>	1,40,000	2,50,000* (inclusive of 1,10,6) from year-2)	Nil 000	Set on 1,10,000 1,25,000	(2) (4)
6. <sup>*</sup>	3,10,000	2,50,000*	Set on 60,000	Set on Nil† 1,25,000 60,000	(2) (4) (6)
7.	000,000,1	2,50,000* (inclusive of 1,25,0 from year-2 and 25,000 fro year-6)	ļ	Set on 35,000	(6)
8,	Nil (due to loss)	50,000** (inclusive of 35,00 from year-6)	Set off 15,000	Set off 15,000	(8)

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Year	Amount equal to sixty to per cent. or sixty-seven per cent., as the case may be, of available surplus allocable as bonus	Amount payable as bonus	Set on or set off of the year carried forward		
(1)	(2)	(3)	(4)	(5)	
	Rs.	Rs.	Rs.	Rs. of (year)	ALCOHOLOGY.
9.	10,000	50,000**	Set off 40,000	Set off 15,000 (8) 40,000 (9)	
10.	2,15,000	1,60,000 (after setting off 35,000 from year-8 and 40,000 from year-9)	Nil	Nil	·

# Notes-

S. RADHAKRISHNAN,

President.

GMGIPND-M-27 Law-14-2-66-900.

<sup>\*</sup>Maximum.

<sup>†</sup>The balance of Rs. 1,10,000 set on from year-2 lapses.

<sup>\*\*</sup> Minimum.

REGISTERED No. D. 221

# 2-NACI and USIUM The Gazette of India

असाधारण

# EXTRAORDINARY

भाग  $\Pi_{-$ खण्ड-1

PART II—Section 1
प्राधिकार से प्रकाशित

# PUBLISHED BY AUTHORITY

सं 0 35

नई दिल्ली, बुधवार, सितम्बर 29, 1965/ग्रसविना 7, 1887

No. 35]

NEW DELHI, WEDNESDAY, SEPTEMBER 29, 1965/ASVINA 7, 1887

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

# MINISTRY OF LAW

(Legislative Department)

New Delhi, the 29th September, 1965/Asvina 7, 1887 (Saka)

THE RAILWAYS (EMPLOYMENT OF MEMBERS OF THE ARMED FORCES) ORDINANCE, 1965

No. 4 of 1965

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

An Ordinance to make certain provisions relating to the employment of members of the Armed Forces of the Union in the working and management of railways.

Whereas a Bill to make certain provisions relating to the employment of members of the Armed Forces of the Union in the working and management of railways has been introduced in Parliament but has not yet been passed;

AND WHEREAS both Houses of Parliament are 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 Bill;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promul-

gate the following Ordinance:-

Short title, ment.

- 1. (1) This Ordinance may be called the Railways (Employment extent and commence- of Members of the Armed Forces) Ordinance, 1965.
  - (2) It extends to the whole of India.
  - (3) It shall come into force at once.

Interpretation.

2. Words and expressions used in this Ordinance and defined in the Indian Railways Act, 1890, shall have the meanings respectively 9 of 1800 assigned to them in that Act.

Employment of members of Armed Forces of the Union to assist a railway administra. tion in connection with the service of a railway.

- 3. (1) When any member of the Armed Forces of the Union is employed to assist a railway administration in connection with the service of a railway, then, whether such employment was before or is after the commencement of this Ordinance,-
  - (a) any provision of the Indian Railways Act, 1890, or of the 9 of 1896 rules made thereunder, which confers a power, status or immunity, or imposes a duty or liability, upon a railway servant, in connection with the working, use, management and maintenance of railways, shall be construed as conferring the same power, status or immunity or imposing the same duty or liability, as the case may be, upon such member of the Armed Forces of the Union when so employed;
  - (b) the employment of a member of the Armed Forces of the Union, in addition to or in the place of any railway servant, shall not affect any liability that would have attached to the railway administration had such member been a railway servant.
- (2) Nothing in sub-section (1) shall be construed as making applicable to the members of the Armed Forces of the Union employed to assist a railway administration the provisions of Chapter VIA of the Indian Railways Act, 1890, or as derogating from any 9 of 1890 provision of a law regulating the governance, control and discipline of the members of the Armed Forces of the Union.

Employment of members of Armed Forces of the Union to replace railway administration in working a railway.

4. If at any time the whole of the working, management and maintenance of a railway, or of a specific portion or section of a railway, is assumed by the Armed Forces of the Union, the Central Government may notify the fact of such assumption in the Official Gazette, and thereupon, so long as such assumption continues, the Indian Railways Act, 1890, shall cease to be applicable to the Railway 9 of 1890 or the portion or section of a Railway concerned.

S. RADHAKRISHNAN. President.

R. C. S. SARKAR, Secy. to the Govt. of India.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS. MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI 1965.

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EXTRAORDINARY

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PART II—Section 1
प्राधिकार से प्रकाशित

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नई दिल्ली, मंगलवार, भ्रवतुबर 19, 1965/म्राहिवन 27, 1887

No. 371

NEW DELHI, TUESDAY, OCTOBER 19, 1965/ASVINA 27, 1887

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सर्क।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 19th October, 1965/Asvina 27, 1887 (Saka)

THE TAXATION LAWS (AMENDMENT AND MISCELLANEOUS PROVISIONS) ORDINANCE, 1965

No. 5 of 1965

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

An Ordinance further to amend the Income-tax Act, 1961, the Estate Duty Act, 1953, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and to provide for exemption from tax in certain cases of undisclosed income invested in National Defence Gold Bonds, 1980.

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

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Short title and commencement.

- 1. (1) This Ordinance may be called the Taxation Laws (Amendment and Miscellaneous Provisions) Ordinance, 1965.
  - (2) It shall come into force at once.

2. In section 2 of the Income-tax Act, 1961 (hereinafter referred 43 of 1961) Amendment of section 2. to as the Income-tax Act), in sub-clause (iv) of clause (14), after the figures "1980", the following shall be inserted, namely:—

"or National Defence Gold Bonds, 1980".

Am endment

- 3. In section 10 of the Income-tax Act, after sub-clause (i) of of section 10. clause (15), the following sub-clause shall be inserted, namely:
  - "(ia) annual payment on National Defence Gold Bonds, 1980;".

Amendment of section 193.

- 4. In section 193 of the Income-tax Act, in the proviso, after clause (i), the following clause shall be inserted, namely:—
  - "(ia) any interest payable to an individual on  $4\frac{1}{4}$  per cent. National Defence Loan, 1968 or 43 per cent. National Defence Loan, 1972; or".

Amendment of Act 34 of 1953.

- 5. In the Estate Duty Act, 1953,—
  - (i) in sub-section (1) of section 33, after clause (o), the following clause shall be inserted, namely:-
    - "(p) National Defence Gold Bonds, 1980, to the extent of the principal value of such Bonds for an aggregate weight of fifty kilogrammes of gold:

Provided that if such Bonds had passed on the death of any person, the exemption conferred by this clause shall not be available in respect of the same Bonds passing on any subsequent death.";

(ii) in sub-section (1) of section 34, in clause (a), for the brackets, letters and word "(n) and (o)", the brackets, letters and word "(n), (o) and (p)" shall be substituted.

Amendment of Act 27 of 1957.

- 6. In section 5 of the Wealth-tax Act, 1957, in sub-section (1), for clause (xvia), the following clause shall be substituted, namely:—
  - "(xvia)  $6\frac{1}{2}$  per cent. Gold Bonds, 1977, 7 per cent. Gold Bonds. 1980 and National Defence Gold Bonds, 1980;".

27 of

7. In section 5 of the Gift-tax Act, 1958, in sub-section (1), after Amendclause (iii), the following clause shall be inserted, namely:—

ment of Act 18

of property in the form of National Defence Gold of 1958. Bonds, 1980, not exceeding the value of such Bonds for an aggregate weight of five kilogrammes of gold in any previous year:

Provided that the exemption conferred by this clause shall be available only to a person who has initially subscribed to the said Bonds;".

11 of 1922. 43 of 1961. 15 of 1940. 21 of 1947. 14 of 1963. 7 of 1964.

43 Af 1961

8. (1) Where a person who has acquired any gold out of his Exemption income which has not been disclosed by him for the purposes of the from tax in Indian Income-tax Act, 1922, or the Income-tax Act, 1961, or the of undisclos-Excess Profits Tax Act, 1940, or the Business Profits Tax Act, 1947, or ed income invested the Super Profits Tax Act, 1963, or the Companies (Profits) Surtax National De-Act, 1964, tenders such gold as subscription for the National Defence Bonds, 1980. Gold Bonds, 1980, prior to the detection of such income by the Incometax Officer or the seizure of such gold under any law for the time being in force, such income shall, notwithstanding anything contained in the said Acts, not be included in his income, profits or gains chargeable to tax under the said Acts in an assessment or re-assessment for any assessment year made under the said Acts on or after the 20th day of October, 1965.

- 27 of 1957.
- (2) In computing the net wealth of a person under the Wealthtax Act, 1957, the value of the assets represented by the income, which under sub-section (1) is not includible in his income, profits or gains, shall, notwithstanding anything contained in the said Act, not be taken into account in an assessment or re-assessment for any. assessment year made under the said Act on or after the 20th day of October, 1965.
- (3) (a) The name of the person subscribing to the National Defence Gold Bonds, 1980, and any particulars relating to the Bonds subscribed to by him, shall be treated as confidential, and, notwithstanding anything contained in any law for the time being in force, no court shall be entitled to require any public servant to disclose the name of such person or any such particulars or to give any evidence in respect thereof.
- (b) No public servant shall disclose the name of the person subscribing to the National Defence Gold Bonds, 1980 or any particulars relating to the Bonds subscribed to by him, except to an officer employed in the execution of any of the Acts mentioned in sub-section

(1) or the Wealth-tax Act, 1957 or to any officer appointed by the 27 of 1957 Comptroller and Auditor-General of India or the Central Board of Direct Taxes (constituted under the Central Boards of Revenue Act, 1963) to audit income-tax receipts or refunds.

54 of 1963

# (4) In this section,—

- (a) "gold" means gold, including its alloy, whether virgin, melted, re-melted, wrought or unwrought, in any shape or form, and includes any gold coin (whether legal tender or not), any ornament and any other article of gold;
- (b) "public servant" includes an officer or other employee of the Reserve Bank of India.

### S. RADHAKRISHNAN,

President.

R. C. S. SARKAR,
Secy. to the Govt. of India.

of 1957

of 1963.

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असाधारण

EXTRAORDINARY

भाग 11-खण्ड-1

PART II—Section 1

प्राधिकार से प्रकाशित

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नई दिल्ली, शुक्रवार, प्रवतूवर 22, 1965/म्रसचिना 30, 1887

No. 39]

NEW DELHI, FRIDAY, OCTOBER 22, 1965/ASVINA 30, 1887

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

## MINISTRY OF LAW

(Legislative Department)

New Delhi, the 22nd October, 1965/Asvina 30, 1887 (Saka)

THE METAL CORPORATION OF INDIA (ACQUISITION OF UNDERTAKING) ORDINANCE, 1965

No. 6 of 1965

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

An Ordinance to provide for the acquisition of the undertaking of the Metal Corporation of India Limited for the purpose of enabling the Central Government in the public interest to exploit, to the fullest extent possible, zinc and lead deposits in and around the Zawar area in the State of Rajasthan and to utilise those, minerals in such manner as to subserve the common good.

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

- 1. (1) This Ordinance may be called the Metal Corporation of and com- India (Acquisition of Undertaking) Ordinance, 1965.
  - (2) It shall come into force at once.

Definitions.

- 2. In this Ordinance, unless the context otherwise requires,—
- (a) "administrator" means an administrator appointed under section 13;
- (b) "company" or "the Metal Corporation India" means the Metal Corporation of India Limited, being a company as defined in the Companies Act, 1956, having its registered 1 of 1956. office at Calcutta;
- (c) "Tribunal" means the Tribunal constituted section 11;
- (d) words and expressions used but not defined in this Ordinance and defined in the Companies Act, 1956, shall have 1 of 1956. the meanings respectively assigned to them in that Act.

### CHAPTER II

Acquisition of the undertaking of the Metal Corporation of India

Undertaking of company to vest in Central Government.

General effect of vesting under

section 3.

- 3. On the commencement of this Ordinance, the undertaking of the company shall, by virtue of this Ordinance, be transferred to, and vest in, the Central Government.
- 4. (1) The undertaking of the company shall be deemed to include all assets, rights, leaseholds, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, mines, workshops, projects, smelters, refineries, stores, instruments, machinery, locomotives, automobiles and other vehicles, mined or extracted zinc or lead ores, concentrates and metals, in process or in stock or in transit, cash balances, cash on hand, reserve fund, investments and book debts and all other rights and interests arising out of such property as were immediately before Ordinance the the commencement of this possession, power or control of the company in relation to the undertaking, whether within or without India, and all books of account, registers, maps, plans, sections, drawings, records of survey and all other documents of whatever nature relating thereto, and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the company in relation to undertaking.
- (2) All property vesting in the Central Government under subsection (1) shall, by force of such vesting, be freed and discharged from any trusts, obligations, mortgages, charges, liens and other en-

cumbrances affecting it, and any attachment, injunction or any decree or order of a court restricting the use of such property in any manner shall be deemed to have been withdrawn.

- (3) Subject to the other provisions contained in this Ordinance, all contracts and working arrangements which are subsisting immediately before the commencement of this Ordinance and affecting the company shall, in so far as they relate to the undertaking of the company, cease to have effect or be enforceable against the company or any person who was surety or had guaranteed the performance thereof and shall be of as full force and effect against or in favour of the Central Government and enforceable as fully and effectually as if instead of the company the Central Government had been named therein or had been a party thereto.
- (4) Subject to the other provisions contained in this Ordinance, any proceeding or cause of action pending or existing immediately before the commencement of this Ordinance by or against the company in relation to its undertaking may, as from such commencement, be continued and enforced by or against the Central Government as it might have been enforced by or against the company if this Ordinance had not been promulgated, and shall cease to be enforceable by or against the company, its surety or guarantor.
- 5. (1) Every officer or other employee of the company (except a provisions director or any managerial personnel specified in section 197A of the respecting Companies Act, 1956, or any other person entitled to manage the officers and whole or a substantial part of the business of the company under a of the special agreement) in the employment of the agreement. special agreement) in the employment of the company immediately company. before the commencement of this Ordinance shall, in so far as such employee is employed in connection with the affairs of the undertaking of the company, become as from such commencement, an officer or other employee, as the case may be, of the Central Government and shall hold his office by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held under the company if this Ordinance had not been promulgated and shall continue to do so unless and until his employment in the Central Government is terminated or until his remuneration, terms and conditions are duly altered by the Central Government:

Provided that if the alteration so made is not acceptable to any such officer or employee, his employment may be terminated by the Central Government on payment to him by the Central Government of compensation equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in the case of other employees:

Provided further that nothing contained in this section shall apply to any officer or other employee who has, by notice in writing given to the Central Government within thirty days next following the commencement of this Ordinance, intimated his intention of not becoming an officer or other employee of the Central Government.

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(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the 14 of 1947 transfer of the services of any officer or other employee of the company shall not entitle any such officer or employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority.

Directors and managing agents not entitled to compensation.

6. Notwithstanding anything contained in any law for the time being in force, no director or managerial personnel specified in section 197A of the Companies Act, 1956, or other person entitled to 1 of 1956. manage the whole or a substantial part of the business and affairs of the company under a special agreement shall be entitled to any compensation against the company or the Central Government for the loss of office or for the premature termination of any contract of management entered into by him with the company.

Duty to deliver possession of property acquired and documents relating thereto.

- 7. (1) Where any property has vested in the Central Government under section 3, every person in whose possession or custody or under whose control the property may be, shall deliver the property to the Central Government forthwith,
- (2) Any person who, on the commencement of this nance, has in his possession or under his control any books, documents or other papers relating to the company which has vested in the Central Government under this Ordinance and which belong to the company or would have so belonged if the undertaking of the company had not been acquired shall be liable to account for the said books, documents and papers to the Central Government and shall deliver them up to the Central Government or to such person as the Central Covernment may specify in this behalf.
- (3) The Central Government may take all necessary steps for securing possession of all properties which have vested in that Government under section 3.

Duty to furnish

8. The company shall, within thirty days from the commencement particulars, of this Ordinance or within such further period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) of the company at the commencement of this Ordinance, all liabilities and obligations of the company subsisting at such commencement and also of all agreements entered into by the company and in force on such commencement including agreements, whether express or implied, relating to leave, pension, gratuity and other terms of service f 1947

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of any officer or other employee of the company under which, by virtue of this Ordinance, the Central Government has, or will have, or may have, liabilities except such agreements as that Government may exclude from the operation of this section, and for this purpose, the Central Government shall afford the company all reasonable facilities.

- 9.: (1) Where it appears to the Central Government that the Right of making of any agreement under which the company has or will have ment to or may have liabilities was not reasonably necessary for the purposes disclaim of the activities of the company or has not been entered into in agreements. good faith, the Central Government may, within one year from the commencement of this Ordinance, apply to the Tribunal for relief from the agreement and the Tribunal, if satisfied after making such inquiry in the matter as it thinks fit that the agreement was not reasonably necessary for the purposes of the activities of the company or has not been entered into in good faith, may make an order cancelling or varying the agreement on such terms as it may think fit to impose and the agreement shall thereupon have effect accordingly.
  - (2) All the parties to the agreement which is sought to be cancelled or varied under this section shall be made parties to the proceeding.
  - 10. (1) The Central Government shall pay compensation to the Compensacompany for the acquisition of the undertaking of the company and acquisition such compensation shall be determined in accordance with the of underprinciples specified in the Schedule and in the manner hereinafter set out, that is to say,-

- (a) where the amount of compensation can be fixed by agreement, it shall be determined in accordance with such agreement;
- (b) where no such agreement can be reached, the Central Government shall refer the matter to the Tribunal within a period of three months from the date on which the Central Government and the company fail to reach an agreement regarding the amount of compensation.
- (2) Notwithstanding that separate valuations are calculated under the principles specified in the Schedule in respect of the several matters referred to therein, the amount of compensation to be given shall be deemed to be a single compensation to be given for the undertaking as a whole.

(3) The amount of compensation determined in accordance with the foregoing provisions shall be paid to the company in cash within a period of six months from the date of such determination:

Provided that if compensation is not paid within the period aforesaid, the Central Government shall pay interest on the amount of compensation at the rate of four per cent. per annum from the date of expiry of the said period.

### CHAPTER III

#### TRIBUNAL

Constitution of Tribunal.

- 11. (1) The Central Government may for the purposes of this Ordinance constitute a Tribunal which shall consist of a single person who is, or has been, or is qualified to be, a Judge of a High Court or of the Supreme Court.
- (2) The Tribunal may choose one or more persons possessing special knowledge of any matter relating to any case under inquiry to assist the Tribunal in determining any question which has to be decided by it under this Ordinance.
- (3) The Tribunal shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of 5 of 1908 the following matters, namely:—
  - (a) summoning and enforcing the attendance of any person and examining him on oath;
  - (b) requiring the discovery and production of documents or other material objects producible as evidence;
    - (c) receiving evidence on affidavits;
  - (d) issuing commissions for the examination of witnesses or documents.
- (4) The Tribunal shall have power to regulate its own procedure and decide all matters within its competence, and may review any of its decisions in the event of there being a mistake on the face of the record or correct any arithmetical or clerical error therein but subject thereto, the decision of the Tribunal on any matter within its jurisdiction shall be final and conclusive.

#### CHAPTER IV

### MANAGEMENT AND ADMINISTRATION OF THE UNDERTAKING

Formation of Government company for

12. For the efficient management and administration of the undertaking of the company vested in the Central Government by virtue of this Ordinance, that Government may form a Government

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company in accordance with the provisions of the Companies Act, manage-1956 and on the formation of such company, the undertaking together underwith all its properties, assets, liabilities and obligations specified in taking. sub-section (1) of section 4 and such other properties, assets, liabilities and obligations as may hereafter be acquired or incurred for the purposes of the undertaking, shall, by virtue of this Ordinance, stand transferred to, and vest in, that Government company.

- 13. (1) Pending the formation of the Government company Appointreferred to in section 12, the Central Government may appoint one, ment of adminisor more than one, administrator for the efficient management and trators. administration of the undertaking.
- (2) Such administrator or administrators shall, in the management and administration of the undertaking act in accordance with such directions, if any, as may be issued by the Central Government in this behalf.

# CHAPTER V

### Miscellaneous

# 14. (1) Any person who—

Penalties.

- (a) having in his possession, custody or control any property forming part of the undertaking of the company, wrongfully withholds such property from the Central Government or wilfully applies it to purposes other than those expressed in or authorised by this Ordinance; or
- (b) wrongfully obtains possession of any property forming part of the undertaking of the company which has vested in the Central Government under this Ordinance; or
- (c) wilfully withholds or fails to furnish to the Central Government or any person specified by that Government as required by sub-section (2) of section 7 any document which may be in his possession, custody or control; or
- (d) wilfully fails to furnish any particulars required under section 8; or
- (e) when required to furnish any such particulars, furnishes any particulars which are false and which he either knows or believes to be false or does not believe to be true.

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:

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Provided that the court trying any offence under clause (a) or clause (b) of this sub-section may at the time of convicting the accused person order him to deliver up or refund within a time to be fixed by the court any property wrongfully withheld or wilfully misapplied or wrongfully obtained.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or of an officer authorised by that Government in this behalf.

Protection of action taken under Ordinance.

15. No suit, prosecution or other legal proceeding shall lie against the Central Government or an administrator or an officer or other employee serving in connection with the affairs of the undertaking for anything which is in good faith done or intended to be done under this Ordinance.

Power to make rules.

- 16. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Ordinance.
- (2) 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 successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following 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:

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# THE SCHEDULE

(See section 10)

PRINCIPLES FOR DETERMINING COMPENSATION FOR ACQUISITION OF THE UNDERTAKING

Paragraph I.—The compensation to be paid by the Central Government to the company in respect of the acquisition of the undertaking thereof shall be an amount equal to the sum total of the value of the properties and assets of the company on the date of commencement of this Ordinance calculated in accordance with the provisions of paragraph II less the sum total of the liabilities and obligations of the company as on the said date calculated in accordance with the provisions of paragraph III.

Paragraph II.—(a) The market value of any land or buildings;

(b) the actual cost incurred by the company in acquiring any plant, machinery or other equipment which has not been worked or used and is in good working condition and the written-down value (determined in accordance with the provisions of the Income-tax Act, 1961) of any other plant, machinery or equipment;

43 of 1961

- (c) the market value of any shares, securities or other investments held by the company;
- (d) the total amount of the premiums paid by the company in respect of all leasehold properties reduced in the case of each such premium by an amount which bears to such premium the same proportion as the expired term of the lease in respect of which such premium shall have been paid bears to the total term of the lease;
- (e) the amount of debts due to the company, whether secured or unsecured, to the extent to which they are reasonably considered to be recoverable;
- (f) the amount of cash held by the company, whether in deposit with a bank or otherwise;
- (g) the value of all tangible assets and properties other than those falling within any of the preceding clauses.

Paragraph III.—The total amount of liabilities and obligations incurred by the company in connection with the management and administration of the undertaking and subsisting immediately before the commencement of this Ordinance.

S. RADHAKRISHNAN,

President.

R. C. S. SARKAR, Secy. to the Govt. of India.

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(W. C. J. 19.3.66) REGISTERED No. D. 221

# HRCI का राजापश्च The Gazette of India

असाधारण

# **EXTRAORDINARY**

भाग II\_खण्ड-1

PART II—Section 1
प्राधिकार से प्रकाशित

# PUBLISHED BY AUTHORITY

इस भाग में भिन्न पृष्ठ संख्या दी जाती हैं जिससे कि यह अलग संकलन के रूप में रखा जा सबे । Separate paging is given to this Part in order that it may be filed as a separate compilation.

### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 31st December, 1965/Pausa 10, 1887 (Saka)

THE INDIAN TARIFF (AMENDMENT) ORDINANCE,
1965

No. 7 of 1965

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

An Ordinance further to amend the Indian Tariff Act, 1934.

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

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

1. (1) This Ordinance may be called the Indian Tariff Short title and commencement.

(Amendment) Ordinance, 1965.

( 647 )

(2) It shall come into force on the 1st day of January, 1966.

Amendment of First Schedule.

- 2. In the First Schedule to the Indian Tariff Act, 1934, in Items 32 of Nos. 72 (35), 72 (36) and 72 (37),—
  - (a) in the third column headed "Nature of duty", for the word "Protective", the word "Revenue" shall be substituted;
  - (b) in the last column headed "Duration of protective rates of duty", the entry "December 31st, 1965" shall be omitted.

S. RADHAKRISHNAN,

President.

R. C. S. SARKAR, Secy. to the Govt. of India.

# EXTRAORDINARY

भाग II खण्ड-1

PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

नई दिल्ली, मंगलवार, फरवरी 1, 1966/माघ 12, 1887 No. 57] NEW DELHI, TUESDAY, FEBRUARY 1, 1966/MAGHA 12, 1887

इस भाग में भिन्न पष्ठ संख्या दी जाती हैं जिससे कि यह अलग संकलन के रूप में रखा जा सर्व । Separate paging is given to this Part in order that it may be filed as a separate compilation.

# MINISTRY OF LAW (Legislative Department)

New Delhi, the 1st February, 1966/Magha 12, 1887 (Saka)

# THE INDIAN TARIFF (AMENDMENT) ORDINANCE, 1966

No. 1 of 1966

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

An Ordinance further to amend the Indian Tariff Act, 1934.

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

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

1. (1) This Ordinance may be called the Indian Tariff (Amend- Short title ment) Ordinance, 1966.

and commencement.

( 677

ESS

2 of .

(2) It shall come into force at once.

Amendment of First Schedule.

2. In the First Schedule to the Indian Tariff Act, 1934, in Section 32 of 1934 V, after Item 27(9), the following Item shall be inserted, namely:

"27(10)	Petroleum, crude	Protective	20 per cent. ad valorem			December 31, 1966.".
		<u> </u>	والمراجعة والمطار	i .	.	)rins

S. RADHAKRISHNAN, President.

S. P. SEN-VARMA. Secy. to the Govt. of India.

# **ERRATUM**

In the Ordinance, 1965 (No. 7 of 1965) of the Ministry of Law (Legislative Department) dated 31st December, 1965, published in the Gazette of India Extraordinary, Part II Section 1 (Issue No. 54) dated 31st December, 1965, the following correction may be made: -

At page 648, line 2, marginal note on the right side for "32 of" read "32 of 1934.".

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1966.

32 of 1934

REGISTERED No. D. 221 18.3-66)

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**EXTRAORDINARY** 

भाग 11-खण्ड-1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

इस भाग में भिन्न पृष्ठ संख्या दी जाती हैं जिससे कि यह अलग सकलन के रूप में राखा जा सर्व । Separate paging is given to this Part in order that it may be filed as a separate compilation.

# MINISTRY OF LAW

(Legislative Department)

New Delhi, 5th February, 1966/Magha 16, 1887 (Saka)

THE DELHI LAND REFORMS (AMENDMENT)
ORDINANCE, 1966

No. 2 of 1966

Promulgated by the President in the Seventeenth Year of the Republic of India

An Ordinance further to amend the Delhi Land Reforms Act, 1954.

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 Delhi Land Reforms Short title (Amendment) Ordinance, 1966.

  Called the Delhi Land Reforms Short title and commencement.
  - (2) It shall come into force at once.

( 679 )

Delhi Act 8 of 1954 to be tempoded.

2. During the period of operation of this Ordinance, the Delhi Land Reforms Act, 1954 (hereinafter referred to as the principal rari y amen- Act), shall have effect as if it had been amended and had always been amended as specified in sections 3 and 4.

### Amendment of section 3.

- 3. In section 3 of the principal Act, for clause (6) and clause (19A), the following clauses shall respectively be substituted, namely: --
  - '(6) "Deputy Commissioner" includes—
    - (i) a Collector;
    - (ii) an Additional Collector;
  - (iii) a Revenue Assistant empowered by the Chief Commissioner by notification in the Official Gazette to discharge all or any of the functions of a Deputy Commissioner under this Act; and
  - (iv) an Assistant Collector of the first grade or class empowered as aforesaid;
  - (19A) "Revenue Assistant" includes any Assistant lector of the first grade or class empowered by the Chief Commissioner to perform all or any of the functions of a Revenue Assistant under this Act:'.

# Amendment of section 13.

- 4. In section 13 of the principal Act, in sub-section (1), for clause (f), the following clause shall be substituted, namely:—
  - "(f) a tenant of or over twelve years in Shahdara Circle and a non-occupancy tenant in any part of the Union territory of Delhi other than a non-occupancy tenant referred to in clause (d);".

Validation of action taken under sections 11 and 13.

- 5. Notwithstanding anything to the contrary contained in the principal Act or in any other law for the time being in force or in any judgment, decree or order of any court,--
  - (a) all declarations (whether general or individual) conferring or purporting to confer Bhumidhari rights in favour of any person or class of persons under any of the clauses (a) to (c) of sub-section (1) of section 11, or in favour of any tenant

or class of tenants under any of the clauses (a) to (h) of subsection (1) of section 13, of the principal Act, made before the commencement of this Ordinance by the Deputy Commissioner or a Revenue Assistant (whether or not such Revenue Assistant was empowered by the Chief Commissioner to discharge all or any of the functions of a Deputy Commissioner) shall be deemed to be, and to have always been made by such Deputy Commissioner or, as the case may be, Revenue Assistant in accordance with law and the persons or class of persons or the tenants or class of tenants in whose favour any such declaration has been made shall be deemed to have been validly and lawfully declared as Bhumidhars:

Provided that nothing herein contained shall affect the right of any person to call in question any such declaration on the ground only that the entries in the revenue records on the basis of which such declaration has been made are incorrect;

(b) all suits, appeals and other proceedings relating to any such declaration pending before any court or other authority immediately before the commencement of this Ordinance, other than those based on the ground referred to in the proviso to clause (a), shall, on such commencement, abate.

S. RADHAKRISHNAN, President.

S. P. SEN-VARMA, Secy. to the Govt. of India.



# THE MERCHANT SHIPPING (AMENDMENT) ORDINANCE, 1966

Pasteron sandance

No. 3 of 1966

Promulgated by the President in the Seventeenth Year of the Republic of India

An Ordinance further to amend the Merchant Shipping Act, 1958.

Whereas a Bill further to amend the Merchant Shipping Act, 1958, for the purpose of implementing the provisions of the International Convention for the Safety of Life at Sea signed in London on the 17th day of June, 1960, 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 to give effect to the provisions of the 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:—

1. (1) This Ordinance may be called the Merchant Shipping Short title (Amendment) Ordinance, 1966.

and com-

mence-

(2) It shall be deemed to have come into force on the 28th day of May, 1966.

ment.

amended.

2. During the period of operation of this Ordinance, the Merchant Act 44 of Shipping Act, 1958 (hereinafter referred to as the principal Act), temporashall have effect subject to the amendments specified in sections 3 to rily 40 (both inclusive).

3. In section 3 of the principal Act,—

Amendment of

- (a) clause (1) shall be re-numbered as clause (1A) and section 3. before the clause as so re-numbered, the following clause shall be inserted, namely: --
  - '(1) "carge ship" means a ship which is not a passenger ship;';

- (b) after clause (18), the following clause shall be inserted, namely:
  - '(18A) "international voyage" means a voyage from or to a port or place in India to or from a port or place outside India;';
- (c) after clause (22), the following clause shall be inserted: namely:—
- "nuclear ship" means a ship provided with a nuclear power plant;';
- (d) in clause (37), for the figures and words "10th day of June, 1948", the figures and words "17th day of June, 1960" shall be substituted:
  - (e) for clause (38), the following clause shall be substituted, namely:—
    - '(38) "safety convention certificate" means,
      - $i\in \mathcal{C}(i)$  a passenger ship safety certificate, where  $i\in \mathcal{C}(i)$ 
        - (ii) a qualified passenger ship safety certificate,
        - (iii) a cargo ship safety construction certificate,
    - (iv) a qualified cargo ship safety construction certificate,
      - (v) a cargo ship safety equipment certificate,
      - (vi) a qualified cargo ship safety equipment certificate.
        - (vii) a cargo ship safety radio telegraphy certificate,
        - (viii) a cargo ship safety radio telephony certificate.
        - (ix) an exemption certificate,
        - (x) a nuclear passenger ship safety certificate,
        - (xi) a nuclear cargo ship safety certificate,

issued under Part IX or, as the case may be, Part IXA.';

- (f) after clause (48), the following clause shall be inserted namely:—
  - '(48A) "tanker" means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of an inflammable nature;'.

4. In section 9 of the principal Act, after sub-section (1), the fol- Amendlowing sub-section shall be inserted, namely:—

section 9.

- "(1A) Without prejudice to provisions sub-section (1), the Central Government, in the case of cargo ships, may, by notification in the Official Gazette authorise any person or body of persons, on such terms and conditions as may be specified therein, to be surveyor or surveyors for the purposes of this Act."
- 5. In section 241 of the principal Act, in sub-section (3),—

on or an instruction

- (a) for the words and figures "or a safety certificate granted section under Part IX", the words, figures and letter "or a passenger 241. ship safety certificate granted under Part IX or, as the case may be, a nuclear passenger ship safety certificate granted under Part IXA" shall be substituted;
- (b) for the words "accept the certificate of survey or safety certificate", the words "accept the certificate of survey or the passenger ship safety certificate or, as the case may be, nuclear passenger ship safety certificate" shall be substituted.
- 6. In section 242 of the principal Act, in clause (c), for the words Amend-"a safety certificate", the words "a passenger ship safety certificate ment of or a nuclear passenger ship safety certificate" shall be substituted.

7. In section 244 of the principal Act, in the proviso, for the Amendwords "a safety certificate", the words "a passenger ship safety cer- ment of tificate or a nuclear passenger ship safety certificate" shall be substituted.

8. In section 284 of the principal Act, for the words "passenger Amendships", wherever they occur, the words "passenger or cargo ships" ment of shall be substituted.

section

9. In section 288 of the principal Act, in sub-section (2),—

Amendment of

- (a) after clause (h), the following clause shall be inserted, section namely:—
  - "(hh) the training of crew in launching and using liferafts:":
- (b) in clauses (i) and (j), for the word "boats", the words "boats or rafts" shall be substituted.

rendnt of ction 13

10. In section 291 of the principal Act,—

- (a) for sub-section (1), the following sub-section shall be substituted, namely:—
  - "(1) Every Indian passenger ship and every Indian cargo ship of three hundred tons gross tonnage or more, shall, in accordance with the rules made under section 296, be provided with a radio installation and shall maintain a radio telegraph service or a radio telephone service of the prescribed nature and shall be provided with such certificated operators as may be prescribed.";
- (b) in sub-section (2), for the words "any other ship of sixteen hundred tons gross or more shall be a radio telegraph installation; and that required to be provided for a ship of less than sixteen hundred tons gross, other than a passenger ship,", the words "any cargo ship of sixteen hundred tons gross or more shall be a radio telegraph installation; and that required to be provided for a cargo ship of less than sixteen hundred tons gross" shall be substituted;
- (c) after sub-section (2), the following sub-section shall be inserted, namely:—
  - "(3) The Central Government may, having regard to the length of the voyage or voyages on which a ship or a class of ships is engaged and the maximum distance such ship or class of ships will be from the shore during such voyage or voyages, exempt, by order in writing and subject to such conditions and restrictions as may be specified therein, any ship or class of ships from compliance with all or any of the obligations imposed by or under this section, if that Government is satisfied that such compliance would be unreasonable or unnecessary:

Provided that an exemption from the obligation to provide with radio telegraph installation in respect of any passenger ship or in respect of any cargo ship of sixteen hundred tons gross tonnage or more shall be subject to the condition that she shall have on board a radio telephone installation:

Provided further that no exemption shall be granted under this section, if it will have an adverse effect on the general efficiency of the distress service for the safety of ships.".

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11. Section 292 of the principal Act shall be re-numbered as sub- Amendsection (1) of that section and after the sub-section as so re-number- ment of ed, the following sub-section shall be inserted, namely:-

section 292.

- "(2) The Central Government may, by order in writing and subject to such conditions and restrictions as may be specified therein, exempt any ship under five thousand tons gross tonnage from the obligation imposed by sub-section (1), if that Government is satisfied, having regard to the area or areas in which the ship is engaged on a voyage or voyages and the value of radio direction finder as a navigational instrument and as an aid to locating ships, aircraft or survival craft, that such compliance would be unreasonable or unnecessary.".
- 12. In section 294 of the principal Act, in sub-sections (1) and Amend-(3), the words "and watchers" shall be omitted.

ment of section 294.

13. In section 296 of the principal Act,—

Amendment of section 296.

- (a) in sub-section (1), after the words "radio telephony", the words "or radio direction finders" shall be inserted;
- (b) in sub-section (2), after clause (a), the following clause shall be inserted, namely:-
  - "(aa) the nature of radio telegraph installation to be provided on motor life-boats and survival craft;".
- 14. In section 297 of the principal Act, for the words "signalling Amendlamp of the type approved", the words "signalling lamp which shall ment of not be solely dependent upon the ship's main source of electrical 297. power and which shall be of the type approved" shall be substituted.

15. In section 298 of the principal Act,—

Amendment of

- (a) in sub-section (1), for the words "about the ship's sta-section bility as is necessary for the guidance of the master in loading <sup>298</sup>. and ballasting the ship", the words "as is necessary to enable the master by rapid and simple processes to obtain accurate guidance as to the stability of the ship under varying conditions of service" shall be substituted;
- (b) for sub-section (2), the following sub-sections shall be substituted, namely:-
  - "(2) The information shall be in such form as may be approved by the Central Government (which may approve the provision of the information in the form of a diagram or drawing only) and shall be suitably amended whenever

any alterations are made to the ship so as to materially affect such information.

(2A) The information shall be based on the determination of the ship's stability by means of an inclining test of the ship and any amendment thereto shall be effected, if necessary, after re-inclining the ship:

Provided that the Central Government may, by a general or special order—

- (a) in the case of any ship, allow the information or an amendment thereto to be based on a similar determination of the stability of a sister-ship;
- (b) in the case of a ship specially designed for the carriage of liquids or ore in bulk, or of any class of such ships, dispense with such tests if it is satisfied from the information available in respect of similar ships that the ship's proportions and arrangements are such as to ensure more than sufficient stability in all probable loading conditions.";
- (c) in sub-section (3), after the words "any information", the brackets and words "(including any amendment thereto)" shall be inserted;
  - (d) in sub-section (4), after the word "information", the brackets and words "(including any amendment thereto)" shall be inserted.

Amendment of section 299.

- 16. In section 299 of the principal Act,—
  - (a) in sub-section (1),—
  - (i) after the words "radio telephony installation", the words "and radio direction finder" shall be inserted;
  - (ii) for the words "safety certificate", the words "passenger ship safety certificate" shall be substituted;
- (b) in sub-section (2), for the words "qualified safety certificate", the words "qualified passenger ship safety certificate" shall be substituted.

Insertion of new sections 299A and 299B.

17. In the principal Act, after section 299, the following sections shall be inserted, namely:—

Safety construction

"299A. (1) Where in respect of any Indian cargo ship of five hundred tons gross or more the Central Government is satisfied that the ship has been surveyed in the manner pres-

cribed under section 299B and that she complies with the con-certistruction rules made under section 284, the Central Government ficates and may issue in respect of the ship-

construction certiships.

- (a) if the ship performs international voyages, a certificates for ficate in the prescribed form to be called a cargo ship safety cargo construction certificate;
- (b) in other cases, a certificate in the prescribed form, to be called a cargo ship construction certificate.
- (2) Where in respect of any such ship as is referred to in sub-section (1) there is in force an exemption certificate granted under section 302 of the Act and the Central Government is satisfied that the ship complies with all the requirements referred to in that sub-section other than those from which the ship is exempt under that certificate, the Central Government may issue in respect of the ship a certificate in the prescribed form to be called a qualified cargo ship safety construction certificate or a qualified cargo ship construction certificate.
- 299B. (1) The Central Government may, subject to the Power to condition of previous publication, make rules to regulate the make making of surveys of cargo ships under this Part.

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 times and places at which, and the manner in which, surveys are to be made;
  - (b) the requirements as to construction, machinery, equipment and marking of sub-division load-lines which are to be fulfilled by cargo ships generally or by any class of cargo ships in particular;
    - (c) the duties of the surveyor making a survey;
  - (d) the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the places or ports of survey;
  - (e) the closing of, and keeping closed, the openings in ships' hulls and any water-tight bulk-heads;
  - (f) the securing of, and keeping in place, and the inspection of, contrivances for closing any such openings as aforesaid;

- (g) the operation of mechanisms of contrivances for closing any such openings as aforesaid and the drills in connection with the operation thereof; and
- (h) the entries to be made in the official log book or other record to be kept of any of the matters aforesaid.".

Amendment of section 300.

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- 18. In section 300 of the principal Act,—
  - (a) in sub-section (1),—
  - (i) for the words "any Indian ship of five hundred tons gross or more, not being a passenger ship,", the words "any Indian cargo ship of five hundred tons gross or more," shall be substituted;
  - (ii) the words "and radio telegraphy or radio telephony installation" shall be omitted;
  - (iii) in clause (a), for the words "safety equipment certificate", the words "cargo ship safety equipment certificate" shall be substituted:
  - (iv) in clause (b), for the words "equipment certificate", the words "cargo ship equipment certificate" shall be substi-
  - (b) in sub-section (2), after the word "qualified", at both the places where it occurs, the words "cargo ship" shall be inserted.

Amendment of section

- 19. In section 301 of the principal Act,—
  - (a) for the words "any Indian ship, not being a passenger ship,", the words "any Indian cargo ship" shall be substituted;
  - (b) in clause (a), before the word "safety", at both the places where it occurs, the words "cargo ship" shall be inserted;
- (c) in clause (b), before the word "radio" at both the places where it occurs, the words "cargo ship" shall be inserted.

20. In section 303 of the principal Act,—

- (a) in sub-section (1), for the words "safety equipment certificate, a qualified safety equipment certificate, an equipment certificate and a qualified equipment certificate", the words "cargo ship safety equipment certificate, a qualified cargo ship safety equipment certificate, a cargo ship equipment certificate and a qualified cargo ship equipment certificate" shall be substituted:
- (b) after sub-section (1), the following sub-sections shall be inserted, namely: -
  - "(1A) A cargo ship safety construction certificate, a qualified cargo ship safety construction certificate, a cargo

301.

Amendment of section 303.

ship construction certificate and a qualified cargo ship construction certificate shall be in force for five years from the date of its issue or for such shorter period as may be specified in the certificate.

- (1B) An exemption certificate issued under section 302 shall be in force for the period for which the certificate to which it relates remains in force or for such shorter period - as may be specified in the exemption certificate.";
- (c) in sub-section (2), for the word, brackets and figure "sub-section (1)", the words, brackets, figures and letters "subsection (1), (1A) or (1B)" shall be substituted;
- (d) for sub-section (3), the following sub-section shall be substituted, namely:—
  - "(3) The Central Government or any person authorised by it in this behalf may grant an extension of any certificate issued under this Part in respect of an Indian ship—
    - (a) where the ship is absent from India on the date when the certificate would, but for the extension, have expired, for such period not exceeding five months from the said date as may be sufficient to enable the ship to return to the port in India at which it is to be surveyed;
    - (b) in any other case, for a period not exceeding one month from the said date:

Provided that any extension granted under clause (a) shall cease to be operative upon the ship's arrival at the port referred to in that clause:

Provided further that no extension shall be granted under clause (b) in respect of a certificate extended under clause (a).".

21. In section 304 of the principal Act, in sub-section (1), for the Amendwords "a safety certificate", the words "a passenger ship safety certi- ment of ficate" shall be substituted.

section 304.

22. In section 306 of the principal Act,—

(a) in sub-section (1), for the word "registered", the words mert of "registered or to be registered" shall be substituted;

Amend... section **3**06.

(b) in sub-section (2), for the words "in respect of an Indian ship", the words "in respect of a ship registered or to be registered in India" shall be substituted.

Amendament of section 307.

- 23. In section 307 of the principal Act,—
- (a) in sub-section (1), for the words "safety certificate" at both the places where they occur, the words "passenger ship safety certificate" shall be substituted;
  - (b) in sub-section (2),—
  - (i) for the words "Indian ship, of five hundred tons gross or more, not being a passenger ship,", the words "Indian cargo ship of five hundred tons gross or more" shall be substituted;
  - (ii) for clause (b), the following clause shall be substituted, namely:—
    - "(b) a cargo ship safety construction certificate issued under section 299A, a cargo ship safety equipment certificate issued under section 300 and a cargo ship safety radio telegraphy certificate or a cargo ship safety radio telephony certificate issued under section 301, or";
  - (iii) in clause (c), for the words "qualified safety equipment certificate", the words "qualified cargo ship safety equipment certificate" shall be substituted;
- (c) after sub-section (2), the following sub-section shall be inserted, namely:—)\*\*
  - "(2A) No sea-going Indian cargo ship, less than 500 tons gross but not less than 300 tons gross, shall proceed on a voyage from any port or place in India to any port or place outside India unless there is in force in respect of the ship a cargo ship safety radio telephony certificate issued under section 301.";
  - (d) in sub-section (3),—
  - (i) for the words "Indian ship of five hundred tons gross or more, not being a passenger ship,", the words "Indian cargo ship of five hundred tons gross or more" shall be substituted;
  - (ii) in clause (a), for the words "an equipment certificate", the words "a cargo ship equipment certificate" shall be substituted;

- (iii) in clause (b), for the words "qualified equipment certificate", the words "qualified cargo ship equipment certificate" shall be substituted;
- (iv) in clause (c), before the word "radio", at both the places where it occurs, the words "cargo ship" shall be inserted.
- 24. In section 308 of the principal Act,—

Amendment of

- (a) in sub-section (1), for the words "every ship other than an Indian ship being a passenger ship or being a ship of five 308. hundred tons gross or more", the words "every ship, being a passenger ship or being a cargo ship of three hundred tons gross or more" shall be substituted;
- (b) in sub-section (2), the words "other than an Indian ship" shall be omitted;
- (c) after sub-section (2), the following sub-section shall be inserted, namely:—
  - "(3) Nothing in this section shall apply in respect of an Indian ship or a nuclear ship.".
- 25. In section 309 of the principal Act, after the word and figures Amend-"sections 299,", the figures and letter "299A," shall be inserted.

ment of section 309.

26. After section 309 of the principal Act, the following section Insertion shall be inserted, namely:-

of new section 309A.

"309A. Where any survey of a ship for the purpose of Alterations issue under this Part of a safety convention certificate has pending been completed, then, notwithstanding anything contained issue of a in this Act, the owner, agent or master of the ship shall not, safety until such certificate has been issued, make, or cause to be certificate. made, any alteration in the structural arrangements, machinery, equipment and other matters covered by the survey without the prior written permission of the Central Government or a person appointed by that Government in this behalf.".

27. In section 331 of the principal Act,—

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Amendsection 331.

- (a) for sub-section (2), the following sub-section shall be ment of substituted, namely:-
  - "(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the classification, packing, labelling and marking of such goods or any

class of such goods, stowing of such goods (whether with or without other cargo) including plans for stowing, the fixing of the maximum quantity of any such class of goods which may be carried in different ships or classes of ships, and such other matters relating to dangerous goods as require to be provided for implementing the provisions of the Safety Convention.";

(b) in the Explanation, for the words "but shall not include any fog or distress signals or like equipment required to be carried by the ship under this Act or the rules or regulations thereunder.", the following shall be substituted, namely:—

"but shall not include,—

- (a) any fog or distress signals or other stores or equipment required to be carried by the ship under this Act or the rules or regulations thereunder;
- (b) particular cargoes carried in ships specially built or converted as a whole for that purpose, such as tankers.".

Insertion of new section 331A. Grainloading plan. 28. After section 331 of the principal Act, the following section shall be inserted, namely:—

- "331A. (1) No grain shall be loaded on board any Indian ship anywhere unless there is in force in respect of such ship a grain-loading plan approved under sub-section (3) or sub-section (4).
- (2) The grain-loading plan shall be in such form and contain such particulars as to the stability of the ship, circumstances of loading on departure and arrival, the main characteristics of the fittings used to prevent the shifting of cargo and such other matters as may be prescribed, having regard to the rules made under sub-section (5) of section 332.
- (3) Save as otherwise provided in sub-section (4), the grain-loading plan shall be submitted to the Central Government for approval and that Government may, having regard to the rules made under sub-section (5) of section 332, the stability of the ship and the circumstances of loading on departure and arrival, approve the plan with such modifications, if any, as it may deem necessary.
- (4) The Central Government may request the Government of a country to which the Safety Convention applies to approve the grain-loading plan of an Indian ship and an approval given in pursuance of such a request and containing a statement that it has been so given shall have effect for the purposes of this section as if the approval had been given by the Central Government.

- (5) The Central Government may, at the request of the Government of a country to which the Safety Convention applies, approve the grain-loading plan of a ship registered in that country if the Central Government is satisfied, in the like manner as in the case of an Indian ship, that such approval can properly be given and where approval is given at such a request, it shall contain a statement that it has been so given.
- (6) It is hereby declared that for the purpose of section 208 (which requires documents relating to navigation to be delivered by the master of a ship to his successor) the plan shall be deemed to be a document relating to the navigation of the ship.".
- 29. In section 332 of the principal Act,—

Amendment of section 332

- (a) after sub-section (2), the following sub-section shall be inserted, namely:—
  - "(2A) Where grain is loaded on board an Indian ship in accordance with a grain-loading plan approved under section 331A or where grain is loaded on board any other ship in accordance with a grain-loading plan approved by or on behalf of the Government of the country in which that ship is registered, the ship shall be deemed, for the purposes of subsections (1) and (2), to have been loaded with all necessary and reasonable precautions.";
  - (b) in sub-section (3),—

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- (i) in clause (a), the word "and" where it occurs last, shall be omitted;
- (ii) for clause (b), the following clauses shall be substituted, namely:—
  - "(b) the kind of grain carried and quantity thereof stated in cubic feet, quarters, bushels or tons weight; and
  - (c) the mode in which the grain is stowed and the precautions taken to prevent the grain from shifting and where the grain has been stowed in accordance with the ship's grain-loading plan, if any, that it has been so stowed.";
- (c) for sub-section (4), the following sub-section shall be substituted, namely:  $\neg$ 
  - "(4) Any person authorised in this behalf, by general or special order of the Central Government may, for securing the observance of the provisions of this section, go on

board a ship carrying a cargo of grain and require the production of the grain-loading plan of the ship and inspect the mode in which the cargo is stowed in the ship.";

- (d) in sub-section (5), for the words "make rules in relation to the loading of ships", the words "make rules in relation to grain-loading plans and the loading of ships" shall be substituted;
- (e) in sub-section (6), for the words "this section", the words, figures and letter "section 331A and this section" shall be substituted.

Amendment of section 343. 30. In section 343 of the principal Act, in sub-section (1), for the words "any ship of less than five hundred tons gross other than a passenger ship", the words "any cargo ship of less than three hundred tons gross" shall be substituted.

Insertion of new Part IXA.

31. After Part IX of the principal Act, the following Part shall be inserted, namely:—

# "PART IXA

# NUCLEAR SHIPS

Application of Act to nuclear ships.

- 344A. (1) This Part applies only to nuclear ships.
- (2) Notwithstanding anything contained in this Act, a nuclear ship shall not be required to obtain or produce any certificate referred to in sub-clauses (i) to (ix) of clause (38) of section 3 or, as the case may be, any like valid safety convention certificate.
- (3) The Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act (other than the provisions of this Part and the provisions of section 456) specified in the notification—
  - (a) shall not apply to nuclear ships; or
  - (b) shall apply to nuclear ships, only with such exceptions, modifications and adaptations as may be specified in the notification.
- (4) A copy of every notification proposed to be issued under sub-section (3) shall be laid in draft before both Houses of Parliament for a period of not less than thirty days while they are

in session and it shall not be issued until it has been approved, whether with or without modification by each House of Parlia-

344B. (1) If in respect of any Indian nuclear passenger or Nuclear cargo ship the Central Government is satisfied that the ship has passenger been surveyed in accordance with this Act and has been inspected by a person appointed in this behalf by the Central Government and has complied with such special requirements, if nuclear any, as that person has, after such inspection, specified, the Cen- cargo ship tral Government may issue—

ship safety certificates safety certificates.

- (a) in the case of a passenger ship, a nuclear passenger ship safety certificate;
- (b) in the case of a cargo ship, a nuclear cargo ship safety certificate.
- (2) A certificate issued under sub-section (1) shall be in force for a period of twelve months from the date of issue or for such shorter period as may be specified in the certificate.
- 344C. (1) No Indian nuclear ship shall proceed on a voyage Prohibifrom any port or place in India to any port or place outside India proceeding unless there is in force in respect of the ship-

to sea without

- (a) a nuclear passenger ship safety certificate if she is certificates. a passenger ship;
- (b) a nuclear cargo ship safety certificate, if she is a cargo ship.
- (2) The master of a ship to which this section applies shall produce to the customs collector from whom a port clearance for the ship is demanded the certificate required by sub-section (1) when the ship proceeds to sea and the port clearance shall not be granted and the ship may be detained until the said certificate is so produced.
- 344D. (1) Every Indian nuclear ship shall have on board a Safety safety assessment and an operating manual in such form and containing such particulars and approved by such authority as may be prescribed.

assessment and operating manual.

(2) The safety assessment and the operating manual shall be prepared, maintained and kept up-to-date in such manner as may be prescribed.

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Foreign nuclear ships to give advance notice of arrival.

- 344E. (1) No nuclear ship, other than an Indian ship, shall enter the territorial waters of India unless the master, owner or agent thereof has given such advance notice of the ship's intended arrival in India as may be prescribed, to such authority as may be specified by the Central Government, and has forwarded along with the notice a true copy of the ship's safety assessment to that authority.
- (2) If on the examination and evaluation of the ship's safety assessment the authority referred to in sub-section (1) is of opinion that the entry of the ship will involve unreasonable radiation or other hazards to the crew, passengers, members of the public, waterways, food or water resources, he may direct the nuclear ship not to enter the territorial waters of India and the ship shall comply with such direction.

Control on arrival of nuclear ships.

- 344F. (1) The master of every nuclear ship shall, on arrival at a port in India, give notice of the ship's arrival in the prescribed form to such authority as the Central Government may specify in this behalf.
- (2) Any person authorised in this behalf (hereinafter referred to as the authorised person), by general or special order of the Central Government, may go on board such ship for the purpose of verifying that she has on board a valid nuclear passenger ship safety certificate or, as the case may be, nuclear cargo ship safety certificate and for the purpose of satisfying himself after examining the safety assessment and operating manual and such other things as he deems fit that there are no unreasonable radiation or other hazards to the crew, passengers, members of the public, waterways, food or water resources.
- (3) If the authorised person is satisfied after such examination that there are no unreasonable radiation or other hazards to the crew, passengers, members of the public, waterways, food or water resources, he may issue a certificate to that effect.

Notice of accidents to nuclear ships:

- 344G. (1) Where an Indian nuclear ship meets with an accident and such accident is likely to lead to environmental hazards, the master of the ship shall forthwith give notice of the accident—
  - (a) to such officer or authority as may be specified in this behalf by the Central Government; and
  - (b) if the ship is in or intends to enter the territorial waters of a foreign State, also to the appropriate Governmental authority of the State.

- (2) Where a nuclear ship other than an Indian ship meets with an accident of the nature specified in sub-section (1) while she is in the territorial waters of, or at a port in, India, the master of the ship shall forthwith give notice of the accident to the officer or authority specified under clause (a) of sub-section (1).
- (3) On receipt of a notice under sub-section (1) section (2), the officer or authority specified under clause (a) of sub-section (1) shall issue such directions as he thinks necessary and expedient in the circumstances of the case and investigate into the causes of the accident in such manner as may be prescribed.
- (4) A copy of the directions issued under sub-section (3) and a report of the findings of the investigation shall be sent to the Central Government within such time as may be prescribed.
- (5) Where a nuclear ship other than an Indian ship meets with an accident of the nature specified in sub-section (1) at any port or place outside India and intends to enter the territorial waters of India in a damaged condition, the master of such ship shall give notice of the nature of the accident and the condition of the ship in such form as may be prescribed to the officer or authority specified under clause (a) of sub-section (1) shall comply with such directions as that officer or authority may give.
- (6) The provisions of this section are in addition to and not in derogation of the provisions of Part XII of this Act.
- 344H. (1) The provisions of sections 228 to 231 (inclusive) Applicashall, so far as may be, apply to and in relation to every certifi- tion of cate issued by the Central Government under section 344B in the certain same manner as they apply to and in relation to a certificate of or in relasurvey.

sections to tion to certain

- (2) The provisions of section 309A shall apply to and in re-certilation to a nuclear ship surveyed for the purpose of issue of a under seccertificate under section 344B as they apply to and in relation to tion 344B. a ship surveyed for the purpose of issue of a safety convention certificate under Part IX.
- 344I. (1) The Central Government may, by notification in the Power Official Gazette, make rules to carry out the purposes of this to make Part.

- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
  - (a) the design, construction and standards of inspection and assembly of the reactor installations of nuclear ships;
    - (b) the standards of safety of nuclear ships;
    - (c) the manner of survey of nuclear ships;
  - (d) the forms in which certificates under this Part may be issued;
  - (e) the form and manner in which the safety assessment and operating manual of a nuclear ship are to be prepared, maintained and kept up-to-date and the particulars to be contained therein;
  - (f) the form of notices under this Part and the time when such notices should be given;
  - (g) the manner in which investigations may be made into causes of accidents to a nuclear ship;
  - (h) the special precautions to be taken against unreasonable radiation or other nuclear hazards to the crew, passengers and other persons, to waterways and to food and water resources;
  - (i) the manner in which radio-active waste from nuclear ships is to be stowed and disposed of;
  - (j) the manner in which the reactor fuelling, defuelling and refuelling and maintenance of nuclear ships are to be carried out;
  - (k) the special training for and qualifications of, masters and seamen of nuclear ships;
  - (1) the special requirements relating to approach, entry into, stay in or departure from, an Indian port of a nuclear ship;
  - (m) the procedure to be followed for determining the operational conditions of a nuclear ship;
  - (n) the protection and closure of the reactor installation of nuclear ships in the case of a collision, grounding, fire, leakage of radio-active material or other accident;

- (o) the fees to be charged for any inspection survey or certificate under this Part;
- (p) any other matter which has to be or may be prescribed.".
- 32. In section 354 of the principal Act, after the words "direct Amend-· danger to navigation", the words "or on encountering sub-freezing ment of air temperatures associated with gale-force winds, causing severe ice section accretions on super-structures or strong gales for which no storm warning has been received by him" shall be inserted.

33. After section 354 of the principal Act, the following section Insertion shall be inserted, namely:—

of new section 354A.

"354A. (1) Where an authority prescribed under section 354 Communireceives intelligence from any source of any danger to navigation cation of mentioned in that section, that authority shall, as soon as possi- intellible, communicate such intelligence to such ships and authorities as he may deem proper.

regarding dangers to naviga-

(2) The intelligence shall be communicated in such manner tion. and subject to such terms and conditions as may be prescribed:

Provided that no fees shall be levied for communicating any intelligence under this section to a ship.".

34. After section 355 of the principal Act, the following section Insertion shall be inserted, namely:—

of new section 355A,

"355A. (1) The master of every Indian ship shall assistance to every person found at sea in danger of being lost, to render unless he is unable or, in the special circumstances of the case, considers that such assistance cannot be rendered without serious danger to his ship, or the persons thereon.

render Obligation assistance to persons in danger.

(2) If the master of an Indian ship is unable or considers it unreasonable to go to the assistance of a person found at sea in danger of being lost, the master shall forthwith cause a statement to be entered in the official log book or, if there is no official log book, cause other record to be kept of his reasons for not going to the assistance of that person.".

Amendment of section 356.

- 35. In section 356 of the principal Act,—
- (a) after clause (a), the following clause shall be inserted, namely:—
  - "(aa) the manner of communicating intelligence regarding dangers to navigation, the terms and conditions subject to which such intelligence may be communicated and the fees which may be levied for the communication of intelligence;";
- (b) in clause (b), for the words "signals of distress and of urgency", the words "signals of distress, urgency and of safety" shall be substituted;
- (c) in clause (d), for the words "radio telegraphy", the words "radio telegraphy or telephony" shall be substituted.

Amendment of section 436.

- 36. In section 436 of the principal Act, in sub-section (2), in the table,—
  - (a) in item 97,—
  - (i) in the second column, the words, brackets and figure "sub-section (1) of" shall be omitted;
  - (ii) in the third column, the brackets and figure "(1)" shall be omitted;
  - (b) after item 98, the following item shall be inserted, namely:—

Serial Offences Penalties Section of No. this Act to which offence has reference "98A If the owner, agent or master Fine which may extend to fails to comply with section five hundred rupees."; 309A. (c) after item 105, the following item shall be inserted, namely: -Serial Offences · Penalties Section of  $\cdot$ No. this Act to which offence has reference

"105A If the owner, agent or master fails to comply with subsection (1) of section 331A.

A Fine which may extend to one thousand rupees,";

(d) after item 108, the following items shall be inserted, namely:—

Serial No.	Offences	Section of this Act to which offence has reference	Penalties			
"108A	If an Indian nuclear ship proceeds or attempts to proceed to sea in contravention of sub-section (1) of section 344C.	344C	The master or owner shall be liable to fine which may extend to ten thousand rupees.			
108B	If an Indian nuclear ship 344D fails to comply with subsection (1) of section 344D.		The master or owner or agent shall be liable to imprison- ment which may extend to six months, or fine which may extend to ten thousand rupees, or both.			
108C	If a nuclear ship other than an 344E Indian ship enters the territorial waters of India in contravention of section 344E.		The master shall be fiable to fine which may extend to ten thousand rupees.			
ro8D	If the master of a nuclear ship fails to give the notice required by sub-section (r) of section 344F.	Fine which may extend to ten thousand rupees.				
108E	(a) If the master of a nuclear ship fails to give the notice required by sub-section (1) or sub-section (5) of section 344G;	344G (1), (2) and (5)	Imprisonment which may extend to one year, or fine which may extend to ten thousand rupees, or both;			
	(b) if the master of a nuclear ship fails to comply with any directions issued under sub-section (3) or sub-section (5) of section 344G.	344G (3) and (5)	Imprisonment which may extend to one year, or fine which may extend to ten thousand rupees, or both.";			

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(e) after item 115, the following item shall be inserted. namely:—

Serial Offences Section of this Act to which offence has reference

"115A If a master fails to comply with section 355A.

Imprisonment which may extend to six months or fine which may extend to one thousand rupees or both.".

Insertion of new section 454A.

37. After section 454 of the principal Act, the following section shall be inserted, namely:—

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Power to prescribe alternative fittings, etc.

"454A. Where this Act requires that a particular fitting, material, appliance or apparatus or any type thereof shall be fitted or provided for in a ship or that any particular provision shall be made in a ship, the Central Government after satisfying itself by trials or otherwise that any other fitting, material, appliance or apparatus or type thereof or provision is as effective as that so required, may permit, by general or special order, such other fitting, material, appliance or apparatus or type thereof or provision to be used or provided.".

Amendment of section 456.

38. In section 456 of the principal Act, to sub-section (1), following proviso shall be added, namely:-

"Provided that no exemption which is prohibited by Safety Convention shall be granted under this sub-section.".

Amendment of section 458.

**39.** In section 458 of the principal Act,—

- (a) in sub-section (2), in clause (a), for the word figures "section 331", the words, figures and letter "section 331 or section 344I" shall be substituted;
- (b) for sub-section (3), the following sub-section shall be substituted, namely:—
  - "(3) Every rule or regulation made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or the regulation, or both Houses agree that the rule or regushould not be made, the rule or regulation shall, thereafter, have effect only in such modified form. or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.".

40. In Part XVII of the principal Act, after section 460, the fol- Insertion lowing section shall be inserted, namely:-

of new section 460A.

"460A. If any difficulty arises in giving effect to the provi- Removal sions of this Act, in so far as they relate to the Safety Conven- of tion, the Central Government may, by order published in the difficulties. Official Gazette, make such provisions not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.".

41. Notwithstanding the retrospective operation of this Ordinance, Certain no contravention of, or no failure to comply with, any of the ventions, provisions of the principal Act as amended by this Ordinance shall etc., not render any person guilty of any offence if such contravention or to be failure--

offences.

- (i) relates either to any provision inserted in the principal Act by this Ordinance or to any existing provision thereof as amended by this Ordinance, and
- (ii) occurred on or after the 28th day of May, 1966 and before the date of publication of this Ordinance in the Official Gazette.

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٦r 1m m ıy ce \_le S. RADHAKRISHNAN, President.

S. P. SEN-VARMA. Secy. to the Govt. of India.



Rep. by Act.....24....of 1966 6-24.

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(w.e.f. 3. a.66)

## HRA Sazette of India

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#### **EXTRAORDINARY**

भाग ॥-विवर्द्ध-।

PART II-Section 1

प्राधिकार से प्रकाशित

#### PUBLISHED BY AUTHORITY

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नई दिल्ली, शुक्रवार, जून 10, 1966/ उघेट्ठा 20, 1888

No. 23]

NEW DELHI, FRIDAY, JUNE 10, 1966/JYAISTHA 20, 1888

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि बहु क्रलग संकलन के रूप में रखा जा सके Separate paging is given to this Part in order that it may be filed as a separate compilation.

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 10th June, 1966/Jyaistha 20, 1888 (Saka)

### THE JAYANTI SHIPPING COMPANY (TAKING OVER OF MANAGEMENT) ORDINANCE, 1966

No. 4 of 1966

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

An Ordinance to provide for the taking over of the management of the undertaking of the Jayanti Shipping Company Limited for a limited period in order to secure the proper management of the same.

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

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

#### CHAPTER I

#### PRELIMINARY

Short title and commencement.

- 1. (1) This Ordinance may be called the Jayanti Shipping Company (Taking over of Management) Ordinance, 1966.
  - (2) It shall come into force at once.

Definitions.

- 2. In this Ordinance, unless the context otherwise requires,
  - (a) "company" means the Tayanti Shipping Company Limited, being a company as defined in the Companies Act, 1956, having 1 of 1956, its registered office in the Union territory of Delhi;
  - (b) "Hotified order" means an order notified in the Official Gazette;
  - (c) "prescribed" means prescribed by rules made under this Ordinance;
  - (d) "undertaking" means the property and assets of the company;
  - (e) words and expressions used but not defined in this Ordinance and defined in the Companies Act, 1956, shall have 1 of 1956. the meanings respectively assigned to them in that Act.

#### CHAPTER II

THE TAKING OVER OF THE MANAGEMENT OF THE UNDERTAKING OF

Board of Control to take over the management of the undertaking of the

company.

- 3. (1) The Central Government may, by notified order, appoint a body of persons (hereinafter referred to as the "Board of Control") to take over the management of the whole or any part of the under-taking of the company or to exercise in respect of the whole or any part thereof such functions of management as may be specified in the notified order.
  - (2) The Board of Control shall consist of a Chairman and such number of other members not exceeding ten as the Central Government may think fit, to be appointed by that Government.

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- (3) The Central Government may either in the notified order issued under sub-section (1) or in a subsequent order specify that one or more members of the Board of Control shall be a full-time member or full-time members, thereof.
- (4) The term of office of, the procedure to be followed in discharge of their functions by, and the manner of filling vacancies among, the members of the Board of Control shall be such as may be prescribed.
- (5) The salaries, allowances and other remuneration and the conditions of service of the members of the Board of Control shall be such as may be determined by the Central Government.
- (6) Any notified order issued under sub-section (1) shall have effect for such period not exceeding five years as may be specified in the order:

Provided that if the Central Government is of opinion that in order to secure the proper management of the undertaking of the company it is expedient that any such notified order should continue in force after the expiry of the period of five years as aforesaid, it may, from time to time vissue directions for such continuance for such period. not exceeding two years at a time, as may be specified in the directions, so however, that the total period of such continuance shall not exceed tensyears, and where any such direction is issued; a copy thereof shall be laid as soon as many be before both Houses of Parliament.

4. (1) On the issue of a notified order under section 3 appointing Effect of a Board of Control to take over the management of the undertaking notified of the company,—

(a) albepersons in charge of the management, including under persons holding offices as directors or managers; or any other managerial personnel of the company immediately before the issue of the notified order, shall be deemed to have vacated their offices as such;

(b) any contract of management between the company and any managing agent or any director or any other managerial personnel theroof holding office as such immediately before the issue of the notified order shall be deemed to have terminated;

(c) the Board of Control shell alone be entitled not withstanding anything contained in the Companies Act, 1956, to

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exercise all the powers of the Board of directors of the company (including the powers to sell or otherwise dispose of any ships or other properties or assets of the company) whether such powers are derived from the said Act or from the memorandum or articles of association of the company or from any other source;

- (d) as from the date of the notified order, all the properties, assets and effects of the company shall be deemed to be in the custody of the Board of Control who shall, as soon as may be after such date, take all such steps as may be necessary to take into its possession or control all such properties, assets and effects and all actionable claims to which the company is or appears to be entitled.
- (2) Subject to the other provisions contained in this Ordinance and to the control of the Central Government, the Board of Control shall take such steps as may be necessary for the purpose of efficiently managing the business of the company and shall exercise such other powers and have such other duties as may be prescribed.

Power of Board of Control to appoint managing agent.

- 5. (1) Notwithstanding anything contained in the Companies Act, 1956, or in any other law for the time being in force, or in the memorandum or articles of association of the company, the Board of Control may, with a view to securing the proper management of the undertaking of the company, appoint with the previous approval of the Central Government any individual, firm or body corporate as the managing agent of the company.
- (2) The managing agent shall receive such remuneration as may be determined by the Board of Control with the previous approval of the Central Government. الأنز المنتجاب وكبالج الهيريوم
- (3) The managing agent shall exercise in respect of the whole or any part of the undertaking of the company such functions of management as may be specified in the order of appointment and as may from time to time be entrusted to it by the Board of Control.
- (4) The managing agent shall not be removed from office except with the previous permission of the Central Government.
- (5) In the discharge of his functions the managing agent shall be under the general superintendence and control of the Board Control.
- (6) The management of the undertaking of the company shall be carried on pursuant to any directions given by the Board of Control

in accordance with the provisions of the notified order issued under subsection (1) of section 3 and the managing agent or any other person having any functions of management in relation to the undertaking of the company or any part thereof shall comply with such directions.

6. Without prejudice to the provisions contained in section 4, the Contracts Board of Control may, with the previous approval of the Central faith etc. Government, make an application to any court having jurisdiction in may be this behalf for the purpose of cancelling or varying any contract or cancelled agreement entered into, at any time, before the issue of the notified or varied. order under sub-section (1) of section 3, between the company and any other person and the court may, if satisfied after due inquiry that such contract or agreement had been entered into in bad faith and is detrimental to the interests of the company, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) that contract or agreement, and the contract or agreement shall have effect accordingly.

7. Notwithstanding anything contained in any law for the time No right being in force, no person who ceases to hold any office by reason of to comthe provisions contained in clause (a) of sub-section (1) of section 4, pensation or whose contract of management is terminated by reason of the pro- for termivisions contained in clause (b) of that sub-section, shall be entitled mation of to any compensation for the loss of office or for the premature termination of his contract of management:

Provided that nothing contained in this section shall affect the right of any such person to recover from the company moneys recoverable otherwise than by way of such compensation.

8. (1) Notwithstanding anything contained in the Companies Act, Applica-1956, or in the memorandum or articles of association of the com-tion of pany,-

Act 1 of 1956.

- (a) it shall not be lawful for the shareholders of the company or any other person to nominate or appoint any person to be a director of the company;
- (b) no resolution passed at any meeting of the shareholders of the company shall be given effect to unless approved by the Central Government;
- (c) no proceeding for the winding up of the company or fer the appointment of a liquidator or receiver in respect thereof shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1), and to the other provisions contained in this Ordinance and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956, shall continue to apply to the 1 of 1956 company in the same manner as it applied thereto before the issue of the notified order under sub-section (1) of section 3.

Power of Centralia Government to cancel order notified under section 3.

9. If at any time it appears to the Central Government on the application of any shareholder of the company or otherwise that the purpose of the notified order made under sub-section (1) of section 3 has been fulfilled or that for any other reason it is not necessary that the order should remain in force, the Central Government may, by notified order, cancel such order and on the cancellation of any such order the management of the undertaking of the company shall revert to the shareholders of the company.

#### CHAPTER III

#### MISCELLANEOUS

Duty to deliver possession of property and documents relating thereto.

- 10: (1) Where a notified order has been made under sub-section (1) of section 3 in relation to the undertaking of the company, every person having possession, custody or control of any property shall deliver the property to the Board of Control or to any such person (including the managing agent) as may be authorised by the Board in this behalf:
- (2) Any person who, on the commencement of this Ordinance, has in his possession or under his control any books, documents or other papers relating to the undertaking of the company shall be liable to account for the said books, documents and papers to the Board of Control and shall deliver them up to the Board or to any such person (including the managing agent) as may be authorised by the Board in this behalf.
- (3) The Central Government may take all necessary steps for securing possession of all properties of the company.

Duty to furnish particulars.

11. The company shall, within ten days from the commencement of this Ordinance or within such further period as the Central Government may allow in this behalf, furnish to the Board of Control a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) of the company at the commencement of this Ordinance, and of all liabilities

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and obligations of the company subsisting at such commencement and also of all agreements entered into by the company and in force from such commencement.

12. (1) For the purpose of ascertaining whether any property is Powers the property of the company or for any other purpose mentioned in of insthis Ordinance or the rules made thereunder, any person authorised pection. by the Central Government in this behalf shall have the right to-

- (a) enter and inspect any premises;
- (b) require any person having the possession, custody control of any register or record of the company to produce such register or record;
- (c) require the occupier of any property belonging to, or claimed to be the property of, the company, to submit to the person so authorised such accounts, books or other documents or to furnish to him such information as he may reasonably think necessary; and
- (d) examine any person having the control of, or employed in connection with, the company and require him to make any statement touching the affairs of the company.
- (2) Any person authorised by the Central Government under sub-section (1) shall be deemed to be a public servant within the of 1860. meaning of section 21 of the Indian Penal Code.

#### **13**. (1) If any person,—

Penalty

- (a) when required by this Ordinance or by any order made saunder this Ordinance to make any statement or furnish information, makes any statement or furnishes any information ments. To which is false in any material particular and which he knows or "sbelieves to be false or does not believe to be true; or
  - (b) makes any such statement as aforesaid in any book, account, record, return or other document which he is required by any order made under this Ordinance to submit,

whe shall be punishable with imprisonment for a term which may rextend to two years, or with fine which may extend to two thousand rupees, cortwith both.

#### (2) Any person, who—

man local (a) dhaving in his possession, custody or control any property forming part of the assets of the company, wrongfully withholds such property from the Board of Control, or

- (b) wrongfully obtains possession of any property forming part of the assets of the company, or
- (c) wilfully withholds or fails to produce to any person authorised under this Ordinance, any register, record or other document which may be in his possession, custody or control, or
- (d) fails, without any reasonable cause, to submit any accounts, books or other documents, when required to do so,

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

Limitation on prosecution.

14. No court shall take cognizance of an offence punishable under this Ordinance except with the previous sanction of the Central Government or of an officer authorised by that Government in this behalf.

Protection of action taken under Ordinance.

15. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Board of Control or any member thereof or any other person (including the managing agent) for anything which is in good faith done or intended to be done under this Ordinance.

Overriding effect of Ordinance.

16. The provisions of this Ordinance or any order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Ordinance or any instrument having effect by virtue of any law other than this Ordinance.

Payment of remuneration and expenses out of the funds of company. 17. All salaries, allowances and other remuneration paid to the Chairman and other members of the Board of Control, the managing agent or any other person who may be appointed or employed in connection with the affairs of the management of the company and all other expenses duly incurred in connection with such management shall be paid out of the funds of the company.

Power of Central Government to give directions. 18. Notwithstanding anything contained in the foregoing provisions of this Ordinance the Central Government may give such directions to the Board of Control as that Government may deem fit for the proper management of the undertaking of the company and the Board of Control shall comply with such directions.

Power to make rules. 19. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Ordinance.

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(2) 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 successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following 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.

20. If any difficulty arises in giving effect to the provisions of this power to Ordinance, the Central Government may, by order as occasion re- remove quires, do anything (not inconsistent with the provisions of this difficul-Ordinance) which appears to it to be necessary for the purpose of ties. removing the difficulty.

> S. RADHAKRISHNAN, President.

> S. P. SEN-VARMA, Secy. to the Govt. of India.

REGISTERED No. D. 231

( w.e.f. g. 19.66)



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EXTRAORDINARY

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PART II—Section 1

प्राधिकार से प्रकाशित

#### PUBLISHED BY AUTHORITY

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नई दिल्ली, मंगलवार, जून 14, 1966/उथेष्ठा 24, 1888 NEW DELHI, TUESDAY, JUNE 14, 1966/JYAISTHA 24, 1888

इस भाग में भिन्न पुष्ठ संख्या दी जानी है जिससे कि यह स्रलग संकलन के रूप में रखा जा सके ।

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

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 14th June, 1966/Jyaistha 24, 1888 (Saka) THE ADVOCATES (AMENDMENT) ORDINANCE, 1966

No. 5 OF 1966

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

An Ordinance further to amend the Advocates Act, 1961.

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 Advocates (Amendment) Ordinance, 1966.

Short this and commencement.

(2) It shall come into force at once.

Act 25 of 1961 to be temporarily amended.

2. During the period of operation of this Ordinance, the Advocates Act, 1961 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in this Ordinance.

Amendment of section 8.

3. For section 8 of the principal Act, the following section shall be, and shall be deemed always to have been, substituted, namely:—

Term of office of members of State Bar Council.

- "8. (1) The term of office of an elected member of a State Bar Council (re-constituted on the expiry of the term of office of the elected members of the State Bar Council under section 54) shall be four years from the date of publication of the result of his election.
- (2) An outgoing member shall continue in office until the publication of the result of the election of his successor.".

Amendment of section 15.

4. In section 15 of the principal Act, clause (e) of sub-section (2) shall be, and shall be deemed always to have been, omitted.

Transitional provision.

5. Where before the commencement of this Ordinance any member of a State Bar Council has retired under section 8 of the principal Act, such member shall be deemed never to have retired and shall continue to hold office for a period of four years from the date of publication of the result of his election as a member of the State Bar Council (re-constituted on the expiry of the term of office of the elected members of the State Bar Council under section 54) and accordingly no act of the State Bar Council or any Committee thereof shall be called in question on the ground merely that such member having ceased to be a member of the State Bar Council on such retirement sat or voted or otherwise took part in the proceedings of the Council or the Committee thereof.

S. RADHAKRISHNAN, President.

S. P. SEN-VARMA, Secy. to the Govt. of India.

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#### **EXTRAORDINARY**

भाग ।।\_खण्डू-1

PART II—Section 1

प्राधिकार से प्रकाशित

#### PUBLISHED BY AUTHORITY

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नई बिल्ली, शुक्रवार, जून 17, 1966/ ज्येष्टा 27, 1888

No. 25]

NEW DELHI, FRIDAY, JUNE 17, 1966/ JYAISTHA 27, 1888

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि वह ग्रलग संकलन के रूप में रखा जा सके Separate paging is given to this Part in order that it may be filed as a separate compilation.

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 17th June, 1966/Jyaistha 27, 1888 (Saka)

THE UNLAWFUL ACTIVITIES (PREVENTION)
ORDINANCE, 1966

No. 6 of 1966

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

An Ordinance to provide for the more effective prevention of unlawful activities of individuals and associations and for matters connected therewith.

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

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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 commencement.

- 1. (1) This Ordinance may be called the Unlawful Activities (Prevention) Ordinance, 1966.
  - (2) It extends to the whole of India.
  - (3) It shall come into force at once.

Definitions.

- 2. In this Ordinance, unless the context otherwise requires,—
  - (a) "association" means any combination or body of individuals, whether the same is known by any distinctive name or not;
  - (b) "cession of a part of the territory of India" includes admission of the claim of any foreign country to any such part;
    - (c) "enemy" means—
    - (i) any person or country at war with, or committing aggression against, India;
      - (ii) any person belonging to any such country;
    - (iii) such other country as may be declared by the Central Government to be assisting the country at war with, or committing aggression against, India;
    - (iv) any person belonging to a country specified in subclause (iii);
  - (d) "prescribed" means prescribed by rules made under this Ordinance;
  - (e) "secession of a part of the territory of India from the Union" includes the assertion of any right to determine whether such part will remain a part of the territory of India;
  - (f) "Tribunal" means the Tribunal constituted under section 6;
  - (g) "unlawful activity" in relation to an individual or association means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise)—
    - (i) which is intended, or supports any claim, to bring about on any ground whatsoever the cession of a part of

the territory of India or the secession of a part of the territory of India from the Union or which incites any individual or group of individuals to bring about such cession or secession;

- (ii) which renders, or is intended to render assistance to any enemy;
- (iii) which propagates or is intended to propagate the cause of any country which, by war or aggression, has threatened, or is threatening, the security of India or any part of the territory thereof;
- (iv) which disclaims or questions the sovereignty of India in respect of any part of the territory of India;
- (v) which disrupts or is intended to disrupt the integrity of India;
- (vi) which is intended to overthrow the Government as by law established by—
  - (a) force or violence or show of force or violence,
  - (b) pursuing any direction of any foreign country;
- (h) "unlawful association" means any association-
- (i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members habitually undertake such activity; or
- (ii) which is subject to foreign influence or control, or is under the control of persons concerned in the Government of any foreign country committing aggression against India, where in any such case there is danger of the utilisation of the association for purposes prejudicial to the defence of India or the sovereignty and integrity of India; or
- (iii) which is organised or equipped in such manner as to enable the members of the association to be employed, or as to arouse reasonable apprehension that the members of the association may be employed, in usurping the functions of the Armed Forces of the Union or of any police force or of any other force constituted under any law for the time being in force; or
- (iv) which is organised or equipped in such manner as to enable the raising of any secret or private armed group

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for the purpose of overthrowing the Government as by law established, by force or violence or show of force or violence; or

- (v) which uses any means to incite or induce any person subject to military, naval or air force law—
  - (a) to cause any mutiny in the military, naval or air force or any other Armed Forces of the Union or any force co-operating therewith or to join in any such mutiny, or
  - (b) to abstain from discharging duties imposed by any law for the time being in force.

#### CHAPTER II

#### UNLAWFUL ASSOCIATIONS

Declaration of an association as unlawful.

- 3. (1) If the Central Government is of opinion that any association is, or has become, an unlawful association, it may, by notification in the Official Gazette, declare such association to be unlawful.
- (2) Every such notification shall specify the grounds on which it is issued and such other particulars as the Central Government may consider necessary:

Provided that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose.

(3) No such notification shall have effect until the Tribunal has, by an order made under section 4, confirmed the declaration made therein and the order is published in the Official Gazette:

Provided that if the Central Government is of opinion that circumstances exist which render it necessary for that Government to declare an association to be unlawful with immediate effect, it may, for reasons to be stated in writing, direct that the notification shall, subject to any order that may be made under section 4, have effect from the date of its publication in the Official Gazette.

(4) Every such notification shall, in addition to its publication in the Official Gazette, be published in not less than one daily newspaper having circulation in the State in which the principal office, if any, of the association affected is situated, and shall also be served on such association in such manner as the Central Government may

think fit and all or any of the following modes may be followed in effecting such service, namely:—

- (a) by affixing a copy of the notification to some conspicuous part of the office, if any, of the association; or
- (b) by serving a copy of the notification, where possible, on the principal office-bearers, if any, of the association; or
- (c) by proclaiming by beat of drum or by means of loudspeakers, the contents of the notification in the area in which the activities of the association are ordinarily carried on; or
  - (d) in such other manner as may be prescribed.
- 4. (1) Where any association has been declared unlawful by a Reference to notification issued under sub-section (1) of section 3, the Central Tribunal. Government shall, within thirty days from the date of the publication of the notification under the said sub-section, refer the notification to the Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful.
- (2) On receipt of a reference under sub-section (1), the Tribunal shall call upon the association affected by notice in writing to show cause, within thirty days from the date of the service of such notice, why the association should not be declared unlawful.
- (3) After considering the cause, if any, shown by the association or the office-bearers or members thereof, the Tribunal shall hold an inquiry in the prescribed manner and after calling for such further information as it may consider necessary from the Central Government or from any office-bearer or member of the association, it shall decide whether or not there is sufficient cause for declaring the association to be unlawful and make, as expeditiously as possible, such order as it may deem fit either confirming the declaration made in the notification or cancelling the same.
- (4) The order of the Tribunal made under sub-section (3) shall be published in the Official Gazette.
- 5. (1) The Central Government may, by notification in the Offi-Tribunail. cial Gazette, constitute, as and when necessary, a tribunal to be known as the "Unlawful Activities (Prevention) Tribunal" consisting of a Chairman and two other members to be appointed by the Central Government.

- [PART II
- (2) The Chairman of the Tribunal shall be a person who is, or has been, a Judge of a High Court and the members thereof shall be persons who are qualified to be Judges of High Court.
- (3) A person shall be disqualified for being appointed or for continuing as member of the Tribunal if he has directly or indirectly any interest in any association which has been declared unlawful under section 3.
- (4) The Chairman or any other member of the Tribunal may resign his office by writing under his hand addressed to the Central Government, but shall continue in office until the appointment of his successor is notified in the Official Gazette.
- (5) A casual vacancy caused by the resignation of the Chairman or any other member of the Tribunal under sub-section (4) or otherwise shall be filled by fresh appointment.
- (6) No act or proceeding of the Tribunal shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.
- (7) The Chairman and other members of the Tribunal shall receive such remuneration and shall be governed by such conditions of service as the Central Government may determine:

Provided that the remuneration of the Chairman or any other member shall not be varied to his disadvantage after his appointment.

- (8) The Central Government shall make available to the Tribunal such staff as may be necessary for the discharge of its functions under this Ordinance.
- (9) All expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund of India.
- (10) The Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places at which it will hold its sittings.
- (11) In the case of a difference of opinion among the members of the Tribunal, the opinion of the majority shall prevail and orders of the Tribunal shall be expressed in terms of the views of the majority.
- (12) The Tribunal shall, for the purpose of making an inquiry under this Ordinance, have the same powers as are vested in a civil

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court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:-

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;
- (b) the discovery and production of any document or other material object producible as evidence;
  - (c) the reception of evidence on affidavits;
- (d) the requisitioning of any public record from any court or office;
- (e) the issuing of any commission for the examination of witnesses.
- (13) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of LOF 1860. the Indian Penal Code and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898. of 1898.
  - 6. (1) Subject to the provisions of sub-section (2), a notification Period operation issued under section 3 shall, if the declaration made therein is con- and cancelfirmed by the Tribunal by an order made under section 4, remain notification. in force for a period of two years from the date on which the notification becomes effective:

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Provided that if the Central Government considers that since the issue of notification there has been no material change in the circumstances under which the notification was issued, the Central Government may, from time to time, extend the period of operation of the notification by any period not exceeding one year at a time.

- (2) Notwithstanding anything contained in sub-section (1), the Central Government may, either on its own motion or on the application of any person aggrieved, at any time, cancel the notification issued under section 3, whether or not the declaration made therein has been confirmed by the Tribunal.
- 7. (1) Where an association has been declared unlawful by a noti- Power fication issued under section 3 which has become effective under the sub-section (3) of that section and the Central Government is satis- funds of an unlawful fied, after such inquiry as it may think fit, that any person has association. custody of any moneys, securities or credits which are being used or are intended to be used for the purpose of the unlawful association, the Central Government may, by order in writing, prohibit

such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with such moneys, securities or credits or with any other moneys, securities or credits which may come into his custody after the making of the order, save in accordance with the written orders of the Central Government and a copy of such order shall be served upon the person so prohibited in such manner as may be prescribed.

- (2) The Central Government may endorse a copy of the prohibitory order made under sub-section (1) for investigation to any officer it may select, and such copy shall be a warrant whereunder such officer may enter in or upon any premises of the person to whom the order is directed, examine the books of such person, search for moneys, securities and credits, and make inquiries from such person or any officer, agent or servant of such person, touching the origin of any dealings in any moneys, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purposes of the unlawful association.
  - (3) A copy of an order made under this section may be served in the manner provided in the Code of Criminal Procedure, 1898, 5 of 1398. for the service of a summons, or, where the person to be served is a corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office, or where there is no registered office, at the place where it carries on business.
  - (4) Any person aggrieved by a prohibitory order made under sub-section (1) may, within fifteen days from the date of the service of such order, make an application to the Court of the District Judge within the local limits of whose jurisdiction such person voluntarily resides or carries on business or personally works for gain, to establish that the moneys, securities or credits in respect of which the prohibitory order has been made are not being used or are not intended to be used for the purpose of the unlawful association and the Court of the District Judge shall decide the question.
  - (5) Except so far as is necessary for the purposes of any proceedings under this section, no information obtained in the course of any investigation made under sub-section (2) shall be divulged by any officer of Government, without the consent of the Central Government.

- (6) In this section, "security" includes a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money.
- 8. (1) Where an association has been declared unlawful by a Power to notification issued under section 3 which has become effective under used for the sub-section (3) of that section, the Central Government may, by purpose of an unlawful notification in the Official Gazette, notify and place which in its association opinion is used for the purposes of such unlawful association.

and conseauences following notification.

Explanation.—For the purposes of this sub-section, "place" from such includes a house or building, or part thereof, or a tent or vessel.

- (2) On the issue of a notification under sub-section (1), the District Magistrate within the local limits of whose jurisdiction such notified place is situate or any officer authorised by him in writing in this behalf shall make a list of all movable properties the notified place in the presence of two respectable found in witnesses.
- (3) If, in the opinion of the District Magistrate, any articles pecified in the list are or may be used for the purposes of the unlawful association, he may make an order prohibiting any person from using the article save in accordance with the written orders of the District Magistrate.
- (4) The District Magistrate or any officer authorised by him in writing in this behalf may thereupon make an order that no person who at the date of the notification was not a resident in the notified place shall, without the permission of the District Magistrate, enter, or be on or in, the notified place.
- (5) Where in pursuance of sub-section (4), any person is granted permission to enter, or to be on or in, the notified place, that person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by the District Magistrate.
- (6) Any police officer or any other person authorised in this behalf by the Central Government may search any person entering, or seeking to enter, or being on or in, the notified place and may detain any such person for the purpose of searching him:

Provided that no female shall be searched in pursuance of this sub-section except by a female.

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- (7) If any person is in the notified place in contravention of an order made under sub-section (4), then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by any police officer or by any other person authorised in this behalf by the Central Government.
- (8) Any person aggrieved by a notification issued in respect of a place under sub-section (1) or by an order made under sub-section (3) or sub-section (4) may, within thirty days from the date of the notification or order, as the case may be, make an application to the Court of the District Judge within the local limits of whose jurisdiction such notified place is situate—
  - (a) for declaration that the place has not been used for the purposes of the unlawful association, or
  - (b) for setting aside the order made under sub-section (3) or sub-section (4),

and on receipt of the application the Court of the District Judge shall, after giving the parties an opportunity of being heard, decide the question.

Procedure to be followed in the disposal of applications under this Ordinance.

9. Subject to any rules that may be made under this Ordinance, the procedure to be followed by the Tribunal in holding any inquiry of under sub-section (3) of section 4 or by a Court of the District Judge this in disposing of any application under sub-section (4) of section 7 or sub-section (8) of section 8 shall, so far as may be, be the procedure laid down in the Code of Civil Procedure, 1908, for the investi- 5 of 1908, gation of claims and the decision of the Tribunal or the Court of the District Judge, as the case may be, shall be final.

#### CHAPTER III

#### OFFENCES AND PENALTIES

Penalty for being members of an unlawful association.

- 10. Whoever is a member of an association declared unlawful by a notification under section 3 which has become effective under sub-section (3) of that section, or takes part in meetings of any such unlawful association, or contributes or receives or solicits any contribution for the purpose of any such unlawful association, or in any way assists the operations of any such unlawful association, shall be punishable with imprisonment for a term which may extend to—
  - (a) seven years, where such association has for its object any unlawful activity which is intended to overthrow the Government as by law established, by—

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- (i) force or violence or show of force or violence;
- (ii) rendering assistance to an enemy or to any country which by war or aggression, has threatened, or is threatening, the security of India;
- (b) three years, in any other case,

and shall also be liable to fine.

- 11. If any person on whom a prohibitory order has been served Penalty for under sub-section (1) of section 7 in respect of any moneys, secu-funds of an rities or credits pays, delivers, transfers or otherwise deals in any unlawful association. manner whatsoever with the same in contravention of the prohibitory order, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and notwithstanding anything contained in the Code of Criminal Procedure, 1898, the court trying such contravention may also impose on the person convicted an additional fine to recover from him the amount of the moneys or credits or the market value of the securities in respect of which the prohibitory order has been contravened or such part thereof as the court may deem fit.
- 12. (1) Whoever uses any article in respect of which a prohibi- Penalty for tory order has been made under sub-section (3) of section 8 shall tion of an be punishable with imprisonment for a term which may extend to order made in respect three years, and shall also be liable to fine.

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for unlawful

activities.

- (2) Whoever is in, or effects or attempts to effect entry into, a notified place in contravention of an order made under sub-section (4) of section 8 shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine.
- (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under sub-section (1) or sub-section (2) shall be cognizable.

13. (1) Whoever—

(a) takes part in or commits, or

(b) advocates, abets, advises or incites the commission of, any unlawful activity, shall be punishable with imprisonment for a

- term which may extend to ten years, and shall also be liable to fine. (2) Whoever, in any way, assists any unlawful activity of any
- association, declared unlawful under section 3, after the notification by which it has been so declared has become effective under subsection (3) of that section, shall be punishable with imprisonment

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5 of 1898.

for a term which may extend to seven years, or with fine, or with

(3) Nothing in this section shall apply to any treaty, agreement or convention entered into between the Government of India and the Government of any other country or to any negotiations therefor carried on by any person authorised in this behalf by the Government of India.

#### CHAPTER IV

#### Miscellaneous

Continuance of association.

14. An association shall not be deemed to have ceased to exist by reason only of any formal act of its dissolution or change of name but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof.

Power declare succeeding association be unlawful.

15. If the Central Government is satisfied that any association is engaged, in succession to any association which has been declared to be unlawful under this Ordinance, in activities substantially similar to those formerly carried on thereby, that Government may, by a notification in the Official Gazette, declare such succeeding association to be unlawful and thereupon the provisions of this Ordinance shall apply to the succeeding association.

Bar of jurisdiction.

16. Save as otherwise expressly provided in this Ordinance, no proceeding taken under this Ordinance by the Central Government or the District Magistrate or any officer authorised in this behalf by the Central Government or the District Magistrate shall be called in question in any court in any suit or application or by way of appeal or revision, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Ordinance.

Prosecution under this Ordinance.

17. No court shall take cognizance of any offence punishable under for offences this Ordinance except with the previous sanction of the Central Government or any officer authorised by the Central Government in this behalf.

Protection of

18. (1) No suit or other legal proceeding shall lie against the action taken Central Government in respect of any loss or damage caused or in good faith. likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rules or orders made thereunder.

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- (2) No suit, prosecution or other legal proceeding shall lie against the District Magistrate or any officer authorised in this behalf by the Central Government or the District Magistrate in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rules or orders made thereunder.
- 19. The Central Government may, by notification in the Official Power Gazette, direct that all or any of the powers which may be exercised by it under this Ordinance, shall, in such circumstances and under such conditions, if any, as may be specified in fication, be exercised also by any State Government and the State Government may, with the previous approval of the Central Government, by order in writing direct that any power which has been directed to be exercised by it shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by any person subordinate to the State Government as may be specified therein.
- 20. The provisions of this Ordinance or any rule or order Effect made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Ordinance or any instrument having effect by virtue of any enactment other than this Ordinance.

Ordinance etc.. consistent with other enactments.

- 21. (1) The Central Government may, by notification in the Power to Official Gazette, make rules to carry out the purposes of this Ordi- make rules. nance.
- (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 service of notices or orders issued or made under this Ordinance and the manner in which such notices and orders may be served, where the person to be served is a corporation, company, bank or association;
  - (b) the procedure to be followed by the Tribunal or District Judge in holding any inquiry or disposing of any application under this Ordinance;
    - (c) any other matter which has to be, or may be, prescribed.
- (3) Every rule made by the Central Government under this section 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 successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, 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.

S. RADHAKRISHNAN, *President*.

S. P. SEN-VERMA, Secy. to the Govt. of India. Rep. by Act...... REGISTERED No. D. 221

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EXTRAORDINARY

आग Ⅱ\_खण्ड-1

PART II—Section 1

PUBLISHED BY AUTHORITY

₩ 26] No. 26] नई बिल्ली, वृहस्पतिवार, जुन 30, 1966/ग्राषाढ़ 9, 1888

NEW DELHI, THURSDAY, JUNE 30, 1966/ASADHA 9, 1888

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह श्रलग संकलन के रूप में रखा जा सके । Separate paging is given to this Part in order that it may be filed as a separate compilation.

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 30th June, 1966/Asadha 9, 1888 (Saka)

THE CRIMINAL LAW AMENDMENT (AMENDMENT)

ORDINANCE, 1966

No. 7 of 1966

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

An Ordinance further to amend the Criminal Law Amendment Act, 1952.

Whereas a Bill further to amend the Criminal Law Amendment Act, 1952, has been introduced in Parliament but has not yet been passed; and it is considered necessary to give effect to the provisions of the Bill with certain modifications;

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;

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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 commencement.

- 1. (1) This Ordinance may be called the Criminal Law Amendment (Amendment) Ordinance, 1966.
  - (2) It shall come into force at once.

Act 46 of 1952 to temporarily amended.

2. During the period of operation of this Ordinance, the Criminal Law Amendment Act, 1952 (hereinafter referred to as the principal Act), shall have effect as if it had been amended as specified in sections 3 and 4.

Amendment of section 8

3. In sub-section (3A) of section 8 of the principal Act, for the word and figures "section 350", the words and figures "sections 350 and 549" shall be substituted.

Insertion of II.

4. After section 10 of the principal Act, the following section shall new section be inserted and shall be deemed always to have been inserted, namely: --

Military, naval and air force laws not to be affected.

- "11. (1) Nothing in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under any military, naval or air force law.
- (2) For the removal of doubts, it is hereby declared that for the purposes of any such law as is referred to in sub-section (1), the court of the special Judge shall be deemed to be a court of ordinary criminal justice.".

Validation and indemnity.

5. No trial or other proceeding held or taken before, and no sentence passed by a court martial or any other authority under any military, naval or air force law before the commencement of the Criminal Law Amendment (Amendment) Ordinance, 1966, shall be called in question in any court merely on the ground that the court martial or other authority had no jurisdiction by virtue of the provisions of the principal Act and all such trials, proceedings and sentences shall, notwithstanding any judgment or order of any court, be as valid and operative as if they had been held, taken or passed in accordance with law; and accordingly no suit or other legal proceeding shall be maintained or continued against any person whatever on the ground that any such trial, proceeding or sentence was not held, taken or passed in accordance with law.

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- 6. (1) Notwithstanding anything contained in this Ordinance or saving. in the principal Act as amended by this Ordinance—
  - (a) cases pending immediately before the commencement of this Ordinance before a special Judge in which one or more persons subject to military, naval or air force law is or are charged with and tried for an offence under the principal Act together with any other person or persons not so subject, and
  - (b) cases pending immediately before such commencement before a special Judge in which one or more persons subject to military, naval or air force law is or are alone charged with and tried for an offence under the principal Act and charges have already been framed against such person or persons,

shall be tried and disposed of by the special Judge.

(2) Where in any case pending immediately before the commencement of this Ordinance before a special Judge one or more persons subject to military, naval or air force law is or are alone charged with and tried for an offence under the principal Act and charges have not been framed against such person or persons before such commencement, or where, on appeal or on revision against any sentence passed by a special Judge in any case in which one or more persons so subject was or were alone tried, the appellate court has directed that such person or persons be retried and on such retrial charges have not been framed against such person or persons before such commencement, then, in either case, the special Judge shall follow the procedure laid down in section 549 of the Code of Criminal Procedure, 1898, as if the special Judge were a Magistrate.

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S. RADHAKRISHNAN,

President.

S. P. SEN-VARMA, Secy. to the Govt. of India.

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EXTRAORDINARY

भाग II\_खणह\_1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

No. 27]

नई दिल्ली, बृहस्पतिवार, जुलाई 7, 1966/श्राषाह 16, 1888

NEW DELHI, THURSDAY, JULY 7, 1966/ASADHA 16, 1888

इस भाग में भिन्न पुष्ठ संख्या दी जाती है जिससे कि यह ग्रलग संकलन के रूप में रखा जा सके।

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

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 7th July, 1966/Asadha 16, 1888 (Saka)

THE CUSTOMS (AMENDMENT) ORDINANCE, 1966

No. 8 of 1966

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

An Ordinance further to amend the Customs Act, 1962.

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 Customs (Amendment) Short title Ordinance, 1966.

mencement.

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(2) It shall be deemed to have come into force on the 6th day of June, 1966.

Act 52 of 1962 to be temporarily amended.

2. During the period of operation of this Ordinance, the Customs Act, 1962 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 and 4.

Amendment of section 14. 3. In section 14 of the principal Act, to clause (a) of sub-section (1), the following proviso shall be added, namely:—

"Provided that in the case of imported goods, such price shall be calculated with reference to the rate of exchange as in force on the relevant date referred to in sub-section (1) of section 15;".

Amendment of section 15.

- 4. In section 15 of the principal Act,—
- (a) in sub-section (1), for the words "The rate of duty", the words "The rate of duty, rate of exchange" shall be substituted;
- (b) after sub-section (2), the following sub-section shall be inserted, namely:—
  - '(3) For the purposes of section 14 and this section—
  - (a) "rate of exchange" means the rate of exchange determined by the Central Government for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;
  - (b) "foreign currency" and "Indian currency" have the meanings respectively assigned to them in the Foreign Exchange Regulation Act, 1947.'.

DELHI, 1966.

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S. RADHAKRISHNAN,

President.

S. P. SEN-VARMA,

Secy. to the Govt. of India.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS,

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EXTRAORDINARY

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PART II-Section 1 प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

Ho 28] No. 28]

of 1947

नई दिल्ली, मंगलवार, जुलाई 12, 1966/ग्राषाह 21, 1888

NEW DELEI, TUESDAY, JULY 12, 1966/ASADHA 21, 1888

इस भाग में भिन्त पृष्ठ संख्या दी जाती है जिससे कि यह प्रतग संकलन के रूप में रखा जा सके ।

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

#### MINISTRY OF LAW (Legislative Department)

New Delhi, the 12th July, 1966/Asadha 21, 1888 (Saka)

THE ESSENTIAL COMMODITIES (AMENDMENT) ORDINANCE, 1966

No. 9 of 1966

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

An Ordinance further to amend the Essential Commodities Act, 1955.

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 Essential Commodities Short title (Amendment) Ordinance, 1966.

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(2) It shall come into force at once.

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2. During the period of operation of this Ordinance, the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act), shall have effect as if it had been amended as specified in sections 3 to 5.

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- 3. In section 3 of the principal Act, after sub-section (3A), the following sub-section shall be inserted, namely:—
  - '(3B) Where any person is required by an order made with reference to clause (f) of sub-section (2) to sell any grade or variety of foodgrains, edible oilseeds or edible oils to the Central Government or a State Government or to an officer or agent of such Government and either no notification in respect of such foodgrains, edible oilseeds or edible oils has been issued under sub-section (3A) or any such notification having been issued has ceased to remain in force by efflux of time, then, notwithstanding anything contained in sub-section (3), there shall be paid to that person such price for the foodgrains, edible oilseeds or edible oils as may be specified in that order having regard to—
    - (i) the controlled price, if any, fixed under this section or by or under any other law for the time being in force for such grade or variety of foodgrains, edible oilseeds or edible oils; and
    - (ii) the price for such grade or variety of foodgrains, edible oilseeds or edible oils prevailing or likely to prevail during the post-harvest period in the area to which that order applies.

Explanation.—For the purposes of this sub-section, "postharvest period" in relation to any area means a period of three months beginning from the last day of the fortnight during which harvesting operations normally commence.'.

4. After section 6 of the principal Act, the following sections shall be inserted, namely:—

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"6A. Where any foodgrains, edible oilseeds or edible oils are seized in pursuance of an order made under section 3 in relation thereto, they may be produced, without any unreasonable delay, before the Collector of the district or the Presidency-town in which such foodgrains, edible oilseeds or edible oils are seized

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and whether or not a prosecution is instituted for the contravention of such order, the Collector, if satisfied that there has been a contravention of the order, may order confiscation of the foodgrains, edible oilseeds or edible oils.

6B. No order confiscating any foodgrains, edible oilseeds or Issue of edible oils shall be made under section 6A unless the owner of cause such articles or the person from whom they are seized—

- (a) is given a notice in writing informing him of the tion of grounds on which it is proposed to confiscate the articles;
- (b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation; and
- (c) is given a reasonable opportunity of being heard in the matter:

Provided that the notice referred to in clause (a) or the representation referred to in clause (b) may, at the request of the person concerned, be oral.

6C. (1) Any person aggrieved by an order of confiscation Appeal. under section 6A may, within one month from the date of the communication to him of such order, appeal to the State Government concerned and the State Government may, after giving an opportunity to the appellant to be heard, pass such order as it may think fit, confirming, modifying or annulling the order appealed against.

(2) Where an order under section 6A is modified or annulled by the State Government, or where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under section 6A, the person concerned is acquitted, and in either case it is not possible for any reason to return the foodgrains or edible oilseeds or edible oils seized, such person shall be paid the price therefor as if the foodgrains, edible oilseeds or edible oils, as the case may be, had been sold to the Government; and such price shall be determined in accordance with the provisions of sub-section (3B) of section 3.

6D. The award of any confiscation under this Act by the Award of Collector shall not prevent the infliction of any punishment to confiscation not to which the person affected thereby is liable under this Act.".

notice before confiscagrains, etc.

interfere with other punishments.

Amendment of section 7.

- 5. In section 7 of the principal Act, in clause (b) of subsection (1),—
  - (a) in the opening paragraph, after the words "seem fit", the words "including, in the case of an order relating to foodgrains, any packages, coverings or receptacles in which they are found and any animal, vehicle, vessel or other conveyance used in carrying foodgrains" shall be inserted;
  - (b) in the proviso, after the words "any part of the property", the words "or any packages, coverings or receptacles or any animal, vehicle, vessel or other conveyance" shall be inserted.

S. RADHAKRISHNAN,

President.

S. P. SEN-VARMA, Secy. to the Govt. of India.

#### **ERRATA**

In the Unlawful Activities (Prevention) Ordinance, 1966 (No. 6 of 1966) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated June 17, 1966—

- (i) at page 237, in the marginal heading to section 5, for "Tribunal", read "Tribunal";
- (ii) at page 241, line 8, for "and", read "any";
- (iii) at page 245, in the marginal heading to section 20, for "Effect Ordinance", read "Effect of Ordinance";
- (iv) at page 246, for "S. P. SEN-VERMA", read "S. P. SEN-VARMA".

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#### EXTRAORDINARY

भाग II-खण्ड-1

#### PART II-Section 1

प्राधिकार से प्रकाशित

#### PUBLISHED BY AUTHORITY

संo 37] नई दिल्ली, मंगलवार, सितम्बर 13, 1966/भाद्र 22, 1888 No. 37] NEW DELHI, TUESDAY, SEPTEMBER 13, 1966/BHADRA 22, 1888

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह भ्रलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 13th September, 1966/Bhadra 22, 1888 (Saka)

## THE METAL CORPORATION OF INDIA (ACQUISITION OF UNDERTAKING) ORDINANCE, 1966

No. 10 of 1966

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

An Ordinance to provide for the acquisition of the undertaking of the Metal Corporation of India Limited for the purpose of enabling the Central Government in the public interest to exploit, to the fullest extent possible, zinc and lead deposits in and around the Zawar area in the State of Rajasthan and to utilise those minerals in such manner as to subserve the common good.

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 and com-

- 1. (1) This Ordinance may be called the Metal Corporation of mencement. India (Acquisition of Undertaking) Ordinance, 1966.
  - (2) The provisions of this Ordinance (except section 17 which shall come into force at once) shall be deemed to have come into force on the 22nd day of October, 1965.

Definitions.

- 2. In this Ordinance, unless the context otherwise requires,—
- (a) "administrator" means an administrator appointed under section 13;
- (b) "commencement of this Ordinance" means the 22nd day of October, 1965;
- (c) "company" or "the Metal Corporation of India" means the Metal Corporation of India Limited, being a company as defined in the Companies Act, 1956, having its register- 1 of 1956. ed office at Calcutta;
- (d) "Tribunal" means the Tribunal constituted under section 11;
- (e) words and expressions used but not defined in this Ordinance and defined in the Companies Act, 1956, shall have 1 of 1956. the meanings respectively assigned to them in that Act,

#### CHAPTER II

ACQUISITION OF THE UNDERTAKING OF THE METAL CORPORATION OF INDIA

Undertaking of company to vest in Central Government.

3. On the 22nd day of October, 1965, the undertaking of the company shall, by virtue of this Ordinance, be deemed to have been transferred to, and vested in, the Central Government.

General effect of vesting under section 3.

4. (1) The undertaking of the company shall be deemed to include all assets, rights, leaseholds (including mining leases, if any), powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, mines, workshops,

projects, smelters, refineries, stores, instruments, machinery, locomotives, automobiles and other vehicles, mined or extracted zinc or lead ores, concentrates and metals, in process or in stock or in transit, cash balances, cash on hand, reserve fund, investments and book debts and all other rights and interests arising out of such property as were immediately before the commencement of this Ordinance in the ownership, possession, power or control of the company in relation to the undertaking, whether within or without India, and all books of account, registers, maps, plans, sections, drawings, records of survey and all other documents of whatever nature relating thereto, and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the company in relation to the undertaking.

- (2) All property included as aforesaid in the undertaking which has vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trusts, obligations, mortgages, charges, liens and other encumbrances affecting it, and any attachment, injunction or any decree or order of a court restricting the use of such property in any manner shall be deemed to have been withdrawn.
- (3) Subject to the other provisions contained in this Ordinance, all contracts and working arrangements which are subsisting immediately before the commencement of this Ordinance and affecting the company shall, in so far as they relate to the undertaking of the company, cease to have effect or be enforceable against the company or any person who was surety or had guaranteed the performance thereof and shall be of as full force and effect against or in rayour of the Central Government and enforceable as fully and effectually as if instead of the company the Central Government had been named therein or had been a party thereto.
- (4) Subject to the other provisions contained in this Ordinance, any proceeding or cause of action pending or existing immediately before the commencement of this Ordinance by or against the company in relation to its undertaking may, as from such commencement, be continued and enforced by or against the Central Government as it might have been enforced by or against the company if this Ordinance had not been promulgated, and shall cease to be enforceable by or against the company, its surety or guarantor,
- 5. (1) Every officer or other employee of the company (except Provisions a director or any managerial personnel specified in section 197A of respecting the Companies Act, 1956, or any other person entitled to manage the employees whole or a substantial part of the business of the company under a of the special agreement) in the employment of the company immediately

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before the commencement of this Ordinance shall, in so far as such employee is employed in connection with the affairs of the undertaking of the company, become as from such commencement, an officer or other employee, as the case may be, of the Central Government and shall hold his office by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held under the company if this Ordinance had not been promulgated and shall continue to do so unless and until his employment in the Central Government is terminated or until his remuneration, terms and conditions are duly altered by the Central Government:

Provided that if the alteration so made is not acceptable to any such officer or employee, his employment may be terminated by the Central Government on payment to him by the Central Government of compensation equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in the case of other employees:

Provided further that nothing contained in this section shall apply to any officer or other employee who has, by notice in writing given to the Central Government within thirty days next following the commencement of this Ordinance, intimated his intention of not becoming an officer or other employee of the Central Government.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the 14 of 1947. transfer of the services of any officer or other employee of the company shall not entitle any such officer or employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority.

6. Notwithstanding anything contained in any law for the time being in force, no director or managerial personnel specified in section 197A of the Companies Act, 1956, or other person entitled to 1 of 1956. manage the whole or a substantial part of the business and affairs of the company under a special agreement shall be entitled to any compensation against the company or the Central Government for the loss of office or for the premature termination of any contract of management entered into by him with the company.

- 7. (1) Where any property has vested in the Central Government under section 3, every person in whose possession or custody or under whose control the property may be, shall deliver the property to the Central Government forthwith.
- (2) Any person who, on the commencement of this Ordinance, has in his possession or under his control any books, documents

Directors and managing agents not entitled to compensation.

Duty to deliver possession of property acquired and documents relating there to.

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or other papers relating to the company which have vested in the Central Government under this Ordinance and which belong to the company or would have so belonged if the undertaking of the company had not vested in the Central Government shall be liable to account for the said books, documents and papers to the Central Government and shall deliver them up to the Central Government or to such person as the Central Government may specify in this behalf.

- (3) The Central Government may take all necessary steps for securing possession of all properties which have vested in that Government under section 3.
- 8. The company shall, within such period as the Central Govern- Duty to ment may allow in this behalf, furnish to that Government a complete furnish inventory of all the properties and assets (including particulars of book debts and investments and belongings) of the company at the commencement of this Ordinance, all liabilities and obligations of the company subsisting at such commencement and also of all agreements entered into by the company and in force on such commencement including agreements whether express or implied, relating to leave, pension, gratuity and other terms of service of any officer or other employee of the company under which, by virtue of this Ordinance, the Central Government has, or will have, or may have, liabilities except such agreements as that Government may exclude from the operation of this section, and for this purpose, the Central Government shall afford the company all reasonable facilities.

- 9. (1) Where it appears to the Central Government that the Right of making of any agreement under which the company has or will have to disclaim or may have liabilities was not reasonably necessary for the pur-certain poses of the activities of the company or has not been entered into in good faith, the Central Government may, within two years from the commencement of this Ordinance, apply to the Tribunal for relief from the agreement and the Tribunal, if satisfied after making such inquiry in the matter as it thinks fit that the agreement was not reasonably necessary for the purposes of the activities of the company or has not been entered into in good faith, may make an order cancelling or varying the agreement on such terms as it may think fit to impose and the agreement shall thereupon have effect accordingly.
- (2) All the parties to the agreement which is sought to be cancelled or varied under this section shall be made parties to the proceeding.

Compensation for acquisition of undertaking.

- 10. (1) The Central Government shall pay compensation to the company for the acquisition of the undertaking of the company and such compensation shall be determined in accordance with the principles specified in the Schedule and in the manner hereinafter set out, that is to say,-
  - (a) where the amount of compensation can be fixed by agreement, it shall be determined in accordance with such agreement:
  - (b) where no such agreement can be reached, the Central Government shall refer the matter to the Tribunal within a period of three months from the date on which the Central Government and the company fail to reach an agreement regarding the amount of compensation.
- (2) Notwithstanding that separate valuations are under the principles specified in the Schedule in respect of the several matters referred to therein, the amount of compensation to be given shall be deemed to be a single compensation to be given for the undertaking as a whole.
- (3) The amount of compensation determined in accordance with the foregoing provisions shall be paid to the company in cash within a period of six months from the date of such determination:

Provided that if compensation is not paid within the period aforesaid, the Central Government shall pay interest on the amount of compensation at the rate of four per cent. per annum from the date of expiry of the said period.

#### CHAPTER III

#### TRIBUNAL

Constitution

- 11. (1) The Central Government may for the purposes of this of Tribunal. Ordinance constitute a Tribunal which shall consist of a single person who is, or has been, or is qualified to be, a Judge of a High Court or of the Supreme Court.
  - (2) The Tribunal may choose one or more persons possessing special knowledge of any matter relating to any case under inquiry to assist the Tribunal in determining any question which has to be decided by it under this Ordinance.

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of 1908.

(3) The Tribunal shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents or other material objects producible as evidence;
  - (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents.
- (4) The Tribunal shall have power to regulate its own procedure and decide all matters within its competence, and may review any of its decisions in the event of there being a mistake on the face of the record or correct any arithmetical or clerical error therein but subject thereto, the decision of the Tribunal on any matter within its jurisdiction shall be final and conclusive.

#### CHAPTER IV

MANAGEMENT AND ADMINISTRATION OF THE UNDERTAKING

12. For the efficient management and administration of the Formation undertaking of the company vested in the Central Government by of Government by of Government by virtue of this Ordinance, that Government may form a Government pany for company in accordance with the provisions of the Companies Act, 1956 management of and on the formation of such company, the undertaking, together undertaking, with all its properties, assets, liabilities and obligations specified in sub-section (1) of section 4 and such other properties, assets, liabilities and obligations as may, after the commencement of this Ordinance, be acquired or incurred for the purposes of the undertaking, shall, by virtue of this Ordinance, stand transferred to, and vest in, that Government company.

13. (1) Pending the formation of the Government company Appointment referred to in section 12, the Central Government may appoint one, of adminisor more than one, administrator for the efficient management and administration of the undertaking.

(2) Such administrator or administrators shall, in the management and administration of the undertaking, act in accordance with such directions, if any, as may be issued by the Central Governa ment in this behalf.

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#### CHAPTER V

#### Miscellaneous

Penalties,

#### 14. (1) Any person who—

- (a) having in his possession, custody or control any property forming part of the undertaking of the company, wrongfully withholds such property from the Central Government; or
- (b) wrongfully obtains possession of any property forming part of the undertaking of the company which has vested in the Central Government under this Ordinance; or
- (c) wilfully withholds or fails to furnish to the Central Government or any person specified by that Government as required by sub-section (2) of section 7 any document which may be in his possession, custody or control; or
- (d) wilfully fails to furnish an inventory as required under section 8; or
- (e) when required to furnish such inventory, furnishes any particulars therein which are false and which he either knows or believes to be false or does not believe to be true,

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:

Provided that the court trying any offence under clause (a) or clause (b) or clause (c) of this sub-section may, at the time of convicting the accused person, order him to deliver up or refund within a time to be fixed by the court any property wrongfully withheld or wrongfully obtained or any document wilfully withheld or not furnished:

Provided further that nothing contained in this section or any other provision of this Ordinance shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him before the date of promulgation of this Ordinance.

- (2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or of an officer authorised by that Government in this behalf.
- 15. No suit, prosecution or other legal proceeding shall lie against the Central Government or an administrator or an officer or other employee serving in connection with the affairs of the undertaking of the company for anything which is in good faith done or intended to be done under this Ordinance.

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Protection of action taken under this Ordinance.

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- 16. (1) The Central Government may, by notification in the Power to Official Gazette, make rules to carry out the purposes of this Ordinance.
- (2) 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 successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, 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.
- 17. Notwithstanding any judgment, decree or order of any Certain court,—

Certain actions, etc., deemed to be taken under this Ordinance.

(a) the Government company called the Hindustan Zinc Ordinance. Limited, having its registered office at Udaipur, formed under the Companies Act, 1956, in pursuance of section 12 of the Metal Corporation of India (Acquisition of Undertaking) Act, 1965, which has been declared to be unconstitutional and void, (hereinafter referred to as the said Act), shall be deemed to be and to have been formed under the Companies Act, 1956, in pursuance of section 12 of this Ordinance; and the undertaking of the Metal Corporation of India together with all properties, assets, liabilities and obligations referred to in section 12 of this Ordinance shall be deemed to have been transferred to, and vested in, the said

Government company on the date of its formation;

(b) any rule, order or appointment purporting to have been made, any decision or direction purporting to have been given, any action or proceeding purporting to have been taken, or anything purporting to have been done under any provision of the said Act shall be deemed to be and to have been a rule, order or appointment made, decision or direction given, action or proceeding taken, or thing done under the corresponding provision of this Ordinance.

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#### THE SCHEDULE

(See section 10)

PRINCIPLES FOR DETERMINING COMPENSATION FOR ACQUISITION OF THE UNDERTAKING

Paragraph I.—The compensation to be paid by the Central Government to the company in respect of the acquisition of the undertaking thereof shall be an amount equal to the sum total of the value of the properties and assets of the company as on the commencement of this Ordinance calculated in accordance with the provisions of paragraph II less the sum total of the liabilities and obligations of the company as on such commencement calculated in accordance with the provisions of paragraph III, together with interest on such amount calculated in accordance with the provisions of paragraph IV.

Paragraph II.—(a) The market value at the commencement of this Ordinance—

- (i) of any land or buildings;
- est using (ii) of sanysplant, machinery or other equipment; when the last so it is a substant to the substant of the substant

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- desired (iii) of any shares, securities or other investments held by such the company; here is a larger of the securities of the securitie
- (b) the total amount of the premiums paid up to the commencement of this Ordinance by the company in respect of all leasehold properties reduced in the case of each such premium by an amount which bears to such premium the same proportion as the expired term of the lease in respect of which such premium shall have been paid bears to the term of the lease;
- (c) the amount of debts due at the commencement of this Ordinance to the company, whether secured or unsecured to the extent to which they are reasonably considered to be recoverable;
- (d) the amount of cash held at the commencement of this Ordinance by the company, whether in deposit with a bank or otherwise;
- (e) the market value at the commencement of this Ordinance of all tangible assets and properties other than those falling within any of the preceding clauses.

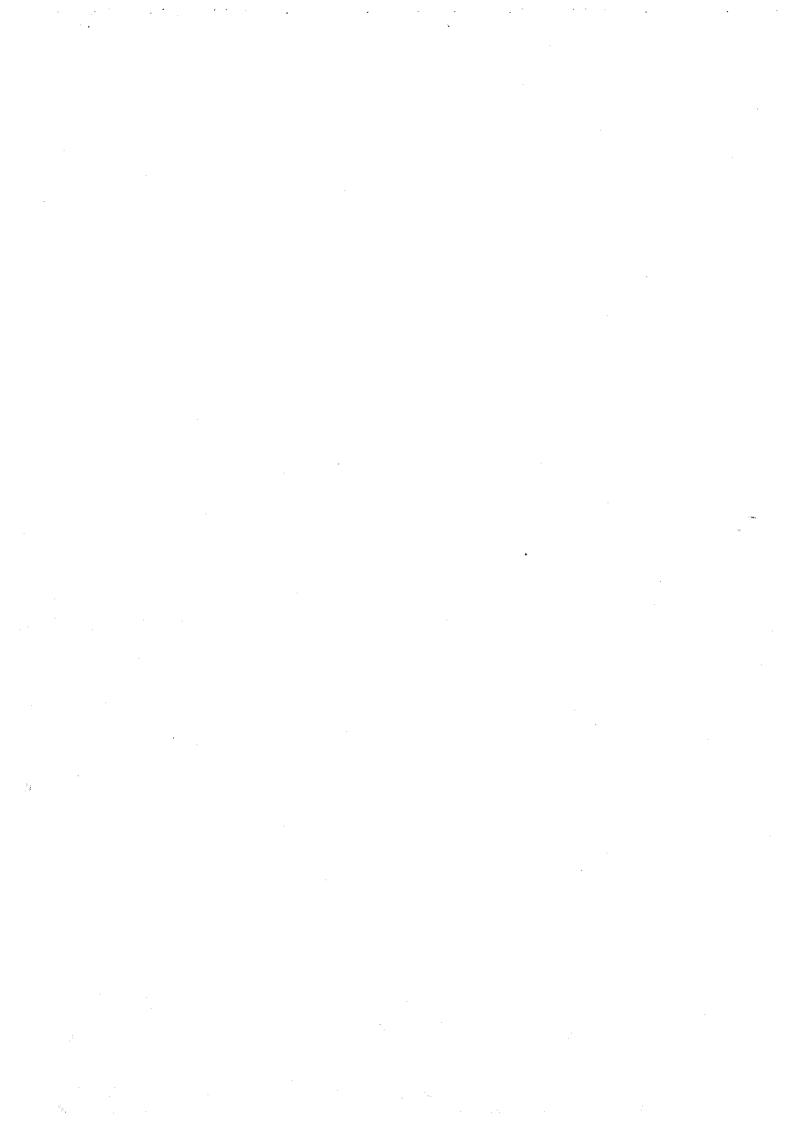
Paragraph III.—The total amount of liabilities and obligations incurred by the company in connection with the formation, management and administration of the undertaking and subsisting immediately before the commencement of this Ordinance.

Paragraph IV.—The interest referred to in paragraph I shall be on the amount mentioned in the said paragraph for the period commencing on the 22nd day of October, 1965, and ending with the date of promulgation of this Ordinance, calculated at the average bank rate during the said period.

S. RADHAKRISHNAN,

President.

S. P. SEN-VARMA, Secy. to the Govt. of India.



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# The Gazette of India

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असाधारण EXTRAORDINARY

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प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

नई दिल्ली बुधवार, सितम्बर 21, 1966/भाद्र 30, 1888 (शक) No. 401 NEW DELHI, WEDNESDAY, SEPTEMBER 21, 1966/BHADRA 30, 1888(S)

इस भाग में भिन्न पुष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 21st September, 1966/Bhadra 30, 1888 (Saka)

THE COMPANIES (AMENDMENT) ORDINANCE, 1966

No. 11 of 1966

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

An Ordinance further to amend the Companies Act, 1956.

WHERFAS 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 Companies (Amendment) Short title Ordinance, 1966.

and commencement. (2) It shall come into force at once.

Amendment of section 108 of the Companies Act, 1956.

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2. In section 108 of the Companies Act, 1956,—

I of 1956.

- (1) for sub-sections (1A), (1B) and (1C), the following subsections shall be, and shall be deemed to have been, substituted on the 1st day of April, 1966, namely:—
  - "(1A) Every instrument of transfer of shares shall be in such form as may be prescribed and—
    - (a) every such form shall, before it is signed by or on behalf of the transferor and before any other entry is made therein, be presented to the prescribed authority who shall stamp or otherwise endorse thereon the date on which it is so presented, and
    - (b) every instrument of transfer in the prescribed form with the date of such presentation stamped or otherwise endorsed thereon shall, after it is executed by or on behalf of the transferor and the transferee and completed in all other respects, be delivered to the company,—
      - (i) in the case of shares dealt in or quoted on a recognized stock exchange, at any time before the date on which the register of members is closed, in accordance with law, for the first time after the date of the prescribed form to the prescribed authority under clause (a) or within two months from the date of such presentation, whichever is later;
      - (ii) in any other case, within two months from the date of such presentation.
  - (1B) Notwithstanding anything contained in sub-section (1A), an instrument of transfer of shares, executed before the commencement of section 13 of the Companies (Amendment) Act, 1965, or executed after such commencement in a 31 of 1965 form other than the prescribed form shall be accepted by a company,—
    - (a) in the case of shares dealt in or quoted on a recognized stock exchange, at any time not later than the expiry of six months from such commencement or the date on which the register of members is closed, in accordance with law, for the first time after such commencement, whichever is later;

- (b) in any other case, at any time not later than the expiry of six months from such commencement.
- (1C) Nothing contained in sub-sections (1A) and (1B) shall apply to—
  - (A) any share—
  - (i) which is held by a company in any other body corporate in the name of a director or nominee in pursuance of sub-section (2), or as the case may be, sub-section (3), of section 49, or
  - (ii) which is held by a corporation, owned or controlled by the Central Government or a State Government, in any other body corporate in the name of a director or nominee, or
  - (iii) in respect of which a declaration has been made to the Public Trustee under section 153B,

if-

- (1) the company or corporation, as the case may be, stamps or otherwise endorses, on the form of transfer in respect of such share under its seal, the date on which it decides that such share shall not be held in the name of the said director or nominee or, as the case may be, in the case of any share in respect of which any such declaration has been made to the Public Trustee, the Public Trustee stamps or otherwise endorses, on the form of transfer in respect of such share under his seal, the date on which the form is presented to him, and
- (2) the instrument of transfer in such form, duly completed in all respects, is delivered to the—
  - (a) body corporate in whose share such company or corporation has made investment in the name of its director or nominee, or
  - (b) company in which such share is held in trust,

within two months of the date so stamped or otherwise endorsed; or

- (B) any share which has been deposited by any person with—
  - (i) the State Bank of India, or

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- (ii) any scheduled bank, or
- (iii) any banking company (other than a scheduled bank) or financial institution approved by the Central Government by notification in the Official Gazette (and any such approval may be accorded so as to be retrospective to any date not earlier than the 1st day of April, 1966), or
- (iv) the Central Government or a State Government or any corporation owned or controlled by the Central Government or a State Government, by way of security for the repayment of any loan or advance to, or for the performance of any obligation undertaken by, such person, if—
  - (1) the bank, institution, Government or corporation, as the case may be, stamps or otherwise endorses under its seal on the form of transfer of such share—
    - (a) the date on which such share is returned by it to the depositor, or
    - (b) in the case of failure on the part of the depositor to repay the loan or advance or to perform the obligation, the date on which such share is released for sale by such bank, institution, Government or corporation, as the case may be, or
    - (c) where the bank, institution, Government or corporation, as the case may be, intends to get such share registered in its own name, the date on which the instrument of transfer relating to such share is executed by it; and
- (2) the instrument of transfer in such form, duly completed in all respects, is delivered to the company within two months from the date so stamped or endorsed.

explanation.—Where any investment by a company or a corporation in the name of its director or nominee referred to in clause (A)(i) or clause (A)(ii), or any declaration referred to in clause (A)(iii), or any deposit referred to in clause (B), of this sub-section is made

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after the expiry of the period or date mentioned in clause (a) of sub-section (1B) or after the expiry of the period mentioned in clause (b) of that sub-section, as the case may be, the form of transfer, in respect of the share which is the subject of such investment, declaration or deposit, means the prescribed form;

- (C) any share which is held in any company by the Central Government or a State Government in the name of its nominee, except that every instrument of transfer which is executed on or after the 1st day of October, 1966, in respect of any such share shall be in the prescribed form.";
- (II) in sub-section (1D),—
- (i) after the words, brackets, figure and letter "or subsection (1B)", the words, brackets, figure and letter "or subsection (1C)"; and
- (ii) after the words "as it may deem fit", the words "whether such application is made before or after the expiry of the periods aforesaid"

shall be, and shall be deemed to have been, inserted on the 1st day of April, 1966.

3. Notwithstanding any judgment, decree or order of any court Validation. or tribunal to the contrary, or anything contained in any law for the time being in force, no order, rule, regulation or appointment made, direction given or thing done, by the Chairman or any other member of the Company Law Board, acting individually, before the commencement of the Companies (Amendment) Act, 1965, shall be deemed to be invalid, or ever to have become invalid, by reason only of the fact that such Chairman or other member, acting individually, had no power to make such order, rule, regulation or appointment or give such direction or do such thing and every such order, rule, regulation or appointment made and every such direction given and thing done shall be deemed to have been made, given or done, as the case may be, by the Company Law Board.

S. RADHAKRISHNAN.

President.

S. P. SEN-VARMA, Secy. to the Govt. of India.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1966.

31 of 1965.





अस्राधारण

#### EXTRAORDINARY

भारा II - खण्ड-1

PART II—Section 1

प्राधिकार से प्रकाशित

#### PUBLISHED BY AUTHORITY

इस भाग म भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह ग्रलग संकलन के रूप में रखा जा सके।

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

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 15th December, 1966/Agrahayana 24, 1888 (Saka)

THE MINERAL PRODUCTS (ADDITIONAL DUTIES OF EXCISE AND CUSTOMS) AMENDMENT ORDINANCE, 1966

No. 12 of 1966

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

An Ordinance further to amend the Mineral Products (Additional Duties of Excise and Customs) Act, 1958.

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

(649)

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 commencement.

- 1. (1) This Ordinance may be called the Mineral Products (Additional Duties of Excise and Customs) Amendment Ordinance, 1966.
  - (2) It shall come into force at once.

2. During the period of operation of this Ordinance, the Mineral Act 27 of 1958 to be Products (Additional Duties of Excise and Customs) Act, 1958 temporarily (hereinafter referred to as the principal Act), shall have effect subject amended. to the amendments specified in section 3.

Amendment of section 3. Table,—

- 3. In section 3 of the principal Act, in sub-section (1), in the
- (a) for items 2, 3 and 4 and the entries relating thereto, the following shall be substituted, namely:—
  - "2. Kerosene

One hundred and sixty rupees per kilolitre at fifteen degrees of Centigrade thermometer.

vaporizing oil.

3. Refined diesel oils and Two hundred and fifty rupees per kilolitre at fifteen degrees of Centigrade thermometer.

4. Diesel oil, not otherwise specified.

One hundred and fifty rupees per metric tonne.";

- (b) for item 6 and the entries relating to it, the following shall be substituted, namely:
  - as described in item tonne.". No. 11(1) of the First Schedule to the Central Excises and Salt Act. 1944.

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"6. Asphalt and Bitumen One hundred rupees per metric

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S. RADHAKRISHNAN, President.

S. P SEN-VARMA, Secy. to the Govt. of India.

PRINTED IN INDIA BY THE GENERAL MANAGER. GOVERNMENT OF INDIA PRESS. NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1966



असाधारण

#### EXTRAORDINARY

भाग II\_खण्ड\_1 PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

65] नई दिल्ली, शुक्रवार, दिसम्बर 23, 1966/पौष 2, 1888 (शक)

No. 65] NEW DELHI, FRIDAY, DECEMBER 23, 1966/Pausa 2, 1888 (saka)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह ग्रलग संकलन के रूप में रला जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

### MINISTRY OF LAW (Legislative Department)

New Delhi, the 23rd December, 1966/Pausa 2, 1888 (Saka)

THE ESSENTIAL COMMODITIES (SECOND AMENDMENT) ORDINANCE, 1966

No. 13 of 1966

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

An Ordinance further to amend the Essential Commodities Act, 1955, and to continue the Essential Commodities (Amendment) Act, 1964, for a further period.

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 Essential Commodities Short title and commencement. (Second Amendment) Ordinance, 1966.

(757)

r of 1944.

(2) It shall come into force at once.

Act to of 1955 to be temporarily amended.

2. During the period of operation of this Ordinance, the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

Amendment of section 3.

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- 3. In section 3 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—
  - "(4A) Where, for any reason, supplies of any article or thing required for the production or manufacture of an essential commodity are not adequate to meet the full requirements of all the undertakings engaged in the production or manufacture of such commodity and the Central Government is of opinion that with the available supplies of such article or thing all the undertakings engaged in the production or manufacture of such commodity should, as far as practicable, be kept as going concerns for the production or manufacture of such commodity to the fullest extent possible and also for the prevention of unemployment, as far as practicable, amongst persons employed in such undertakings, it may, by order, direct that—
    - (a) no employer shall close his undertaking, whether partially or wholly, except with the previous permission in writing of such officer as may be specified in this behalf in the order;
    - (b) no employer shall keep his undertaking working for more than such number of days in a week and such number of hours each day, as may be specified in the order.
  - (4B) Where in pursuance of an order under clause (b) of sub-section (4A) an undertaking is closed, whether partially or wholly for any day or number of days in a week, the employer of the undertaking shall pay for such closure to each of the persons employed in the undertaking or any part thereof which is closed, compensation which shall be equal to fifty per cent. of the total of the basic wages and dearness allowance that would have been payable to such person had there been no such closure.
- (4C) For removal of doubt, it is hereby declared that different orders may be made under sub-section (4A) in respect of—
  - (i) different classes of undertakings; or

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- (ii) undertakings in different areas.".
- 4. Notwithstanding anything to the contrary contained in any law Validation for the time being in force, where an employer in respect of an cotton textile undertaking engaged in the production or manufacture of cotton mills on textiles has closed such undertaking either wholly or partially on any day in a week during the period between the 12th day of December, 1966, and the commencement of this Ordinance, both days inclusive, in pursuance of the decision taken by the Government of India in that behalf and specified by the Textile Commissioner to the Government of India, Bombay, in his circular dated the 3rd December, 1966,-

- (a) such undertaking shall be deemed to have been closed on each such day in accordance with law; and
- employer compensation for (b) the shall pay closure to the persons employed (including badli workmen) in the undertaking at the rate provided for in section 25C of the Industrial Disputes Act, 1947.

14 of 1947.

5. The duration of the Essential Commodities (Amendment) Act, Continuance 1964, is hereby extended by a period of one year up to and including 1947. the 31st day of December, 1967, and accordingly, during the period of operation of this Ordinance, that Act shall have effect subject to the modification that in section 1 of that Act, in sub-section (3), for the words, figures and letters "the 31st day of December, 1966", the words, figures and letters "the 31st day of December, 1967" shall be substituted.

> S. RADHAKRISHNAN, President.

> S. P. SEN-VARMA, Secy. to the Govt. of India.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1966.





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#### EXTRAORDINARY

भाग 11-खण्ड-1

PART II-Section 1

प्राधिकार से प्रकाशित

#### PUBLISHED BY AUTHORITY

सं० 3] नई दिल्ली, शुक्रवार, जनवरी 20, 1967/पौष 30, 1888 No. 3] NEW DELHI, FRIDAY, JANUARY 20, 1967/PAUSA 30, 1888

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह भ्रालग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 20th January, 1967/Pausa 30, 1888 (Saka)

THE LAND ACQUISITION (AMENDMENT AND VALIDATION) ORDINANCE, 1967

No. 1 of 1967

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

An Ordinance further to amend the Land Acquisition Act, 1894, and to validate certain acquisitions of land under the said Act.

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 commencement.

- 1. (1) This Ordinance may be called the Land Acquisition (Amendment and Validation) Ordinance, 1967.
  - (2) It shall come into force at once.

Act 1 of 1894 to be temporarily amended.

2 During the period of operation of this Ordinance, the Land Acquisition Act, 1894 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 and 4.

Amendment of section 5A.

3. In section 5A of the principal Act, in sub-section (2), for the words "submit the case for the decision of the appropriate Government, together with the record of the proceedings held by him and a report containing his recommendations on the objections.", the words, figures and brackets "either make a report in respect of the land which has been notified under section 4, sub-section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government." shall be substituted.

Amendment of section 6.

- 4. In section 6 of the principal Act,—
  - (a) in sub-section (1),—
  - (i) after the words "certify its orders", the following shall be inserted, namely:—

"and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under section 4, sub-section (1), irrespective of whether one report or different reports has or have been made under section 5A, sub-section (2)";

(ii) for the words "Provided that", the following shall be

"Provided that no declaration in respect of any particular land covered by a notification under section 4, sub-section (1), published after the commencement of the Land Acquisition (Amendment and Validation)

Ordinance, 1967, shall be made after the expiry of three years from the date of such publication.

#### Provided further that";

- sale (b) in sub-section (2), for the words "The declaration", the words "Every declaration" shall be substituted.
- 5. (1) Notwithstanding any judgment, decree or order of any Validation of certain court to the contraryacquisitions.
  - (a) no acquisition of land made or purporting to have been made under the principal Act before the commencement of this Ordinance, and no action taken or thing done (including any order made, agreement entered into, or notification published) in connection with such acquisition shall be deemed to be invalid or ever to have become invalid merely on the ground-
    - (i) that one or more Collectors have performed the functions of Collector under the principal Act in respect of the land covered by the same notification under sub-section (1) of section 4 of the principal Act; or
    - (ii) that one or more reports have been made under subsection (2) of section 5A of the principal Act, whether in respect of the entire land, or different parcels thereof, covered by the same notification under sub-section (1) of section 4 of the principal Act; or
    - (iii) that one or more declarations have been made under section 6 of the principal Act in respect of different parcels of the land covered by the same notification under sub-section (1) of section 4 of the principal Act in pursuance of one or more reports under section 5A thereof;
  - (b) any acquisition in pursuance of any notification published under sub-section (1) of section 4 of the principal Act before the commencement of this Ordinance may be made after such commencement and no such acquisition and no action taken or thing done (including any order made, agreement entered into, or notification published), whether before or after such commencement, in connection with such acquisition shall be deemed to be invalid merely on the grounds referred to in clause (a) or any of them.

(2) Notwithstanding anything contained in clause (b) of subsection (1), no declaration under section 6 of the principal Act in respect of any land which has been notified before the commencement of this Ordinance, under sub-section (1) of section 4 of the principal Act, shall be made after the expiry of two years from the commencement of this Ordinance.

S. RADHAKRISHNAN,

President.

S. P. SEN-VARMA, Secy. to the Govt. of India.

REGISTERED No. D. 221.



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**EXTRAORDINARY** 

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PART II—Section 1

प्राधिकार से प्रकाशित

#### PUBLISHED BY AUTHORITY

नं 0 7] नई दिल्ली, मंगलवार, 28 फरवरी 1967/फाल्गुन 9, 1888 (शक) No. 7] NEW DELHI, TUESDAY, FEB. 28, 1967/PHALGUNA 9, 1888 (Saka)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह भ्रलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 28th February, 1967/Phalguna 9, 1888 (Saka)

## THE REPRESENTATION OF THE PEOPLE (AMEND-MENT) ORDINANCE, 1967

No. 2 of 1967

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

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

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 fitle and commencement.

Amendment of section 73 of Act 43 of 1951.

- 1. (1) This Ordinance may be called the Representation of the People (Amendment) Ordinance, 1967.
  - (2) It shall come into force at once.
  - 2. In section 73 of the Representation of the People Act, 1951-
  - (a) for the words, brackets, letter and figures "the date originally fixed for the completion of the election under clause (e) of section 30, the names of the members elected for the various constituencies by that date", the following shall be substituted, namely:—

"the results of the elections in all the constituencies [other than those in which the poll could not be taken for any reason on the date originally fixed under clause (d) of section 30 or for which the time for completion of the election has been extended under the provisions of section 153] have been declared by the returning officer under the provisions of section 53 or, as the case may be, section 66, the names of the members elected for those constituencies";

(b) for clause (a) of the proviso, the following clause shall be substituted, namely:—

#### "(a) to preclude—

- (i) the taking of the poll and the completion of the election in any Parliamentary or Assembly constituency or constituencies in which the poll could not be taken for any reason on the date originally fixed under clause (d) of section 30; or
- (ii) the completion of the election in any Parliamentary or Assembly constituency or constituencies for which time has been extended under the provisions of section 153; or".

S. RADHAKRISHNAN, President.

S. P. SEN-VARMA, Secy. to the Govt. of India.

PRINTED IN INDIA BY THE GENERAL MANAGER, COVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1967.

REGISTERED No. D 221



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#### **EXTRAORDINARY**

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PART II—Section 1 प्राधिकार से प्रकाशित

#### PUBLISHED BY AUTHORITY

सं 17] No. 17] नई दिल्ली, श्रुक्रवार, मई 5, 1967/वैशाल 15, 1889 NEW DELHI, FRIDAY, MAY 5, 1967/VAISKHA 15, 1889

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह ग्रलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as
a separate compilation.

## MINISTRY OF LAW (Legislative Department)

New Delhi, the 5th May, 1967/Vaisakha 15, 1889 (Saka)

## THE ANTI-CORRUPTION LAWS (AMENDMENT) ORDINANCE, 1967

No. 3 of 1967

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

An Ordinance further to amend the anti-corruption laws.

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 Anti-Corruption Laws Short title (Amendment) Ordinance, 1967.

(2) It shall come into force at once.

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mendment f anti-coruption law relation certain ending rials.

#### 2. (1) Notwithstanding—

- (a) the substitution of new provisions for sub-section (3) of section 5 of the Prevention of Corruption Act, 1947 (hereinafter <sup>2</sup> of 1947, referred to as the 1947-Act) by section 6(2)(c) of the Anti-Corruption Laws (Amendment) Act, 1964 (hereinafter referred <sup>40</sup> of 1954 to as the 1964-Act); and
- (b) any judgment or order of any court, the said sub-section (3) as it stood immediately before the commencement of the 1964-Act, shall apply and shall be deemed always to have applied to and in relation to trials of offences punishable under sub-section (2) of section 5 of the 1947-Act pending before any court immediately before such commencement as if no such new provisions had been substituted for the said sub-section (3).
- (2) The accused person in any trial to and in relation to which sub-section (1) applies may, at the earliest opportunity available to him after the commencement of this Ordinance, demand that the trial of the offence should proceed from the stage at which it was immediately before the commencement of the 1964-Act and on any such demand being made the court shall proceed with the trial from that stage.
- (3) For the removal of doubt it is hereby provided that any court—
  - (i) before which an appeal or application for revision against any judgment, order or sentence passed or made in any trial to which sub-section (1) applies is pending immediately before the commencement of this Ordinance, or
  - (ii) before which an appeal or application for revision against any judgment, order or sentence passed or made before the commencement of this Ordinance in any such trial, is filed after such commencement,

shall remand the case for trial in conformity with the provisions of this section.

S. RADHAKRISHNAN,

President.

S. P. SEN-VARMA, Secy. to the Govt. of India.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI 1967.

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#### EXTRAORDINARY

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PART II-Section 1

प्राधिकार से प्रकाशित

#### JUBLISHED BY AUTHORITY

नई दिल्ली, शुक्रवार, मई 5, 1967/ वैशाखा 15, 1889 Rio 18] NEW DELHI, FRIDAY, MAY 5, 1967/VAISAKHA 15, 1889 No. 181

इस भाग में भिन्न पृथ्ठ संख्या दी जाती है जिससे कि यह ग्रलग संकलन के रूप में रखा जा सके । Separate paging is given to this Part in order that it may be filed as a separate compilation.

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 5th May, 1967/Vaisakha 15, 1889 (Saka)

#### THE PASSPORTS ORDINANCE, 1967

No. 4 of 1967

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

An Ordinance to provide for the issue of passports and travel documents, to regulate the departure from India of citizens of India and other persons and for matters incidental or

ancillary thereto.

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:

ort title, tent and nmence 1967.

- 1. (1) This Ordinance may be called the Passports Ordinance, 1967.
  - (2) It extends to the whole of India.
  - (3) It shall come into force at once.

finitions.

- 2. In this Ordinance, unless the context otherwise requires,—
- (a) "departure", with its grammatical variations and cognate expressions, means departure from India by water, land or air;
  - (b) "passport" means a passport issued under this Ordinance.

Explanation.—For the purposes of section 3, "passport" includes a passport which having been issued by or under the authority of the Government of a foreign country satisfies the conditions prescribed under the Passport (Entry into India) Act, 1920, in respect of the class of passports to which it belongs;

34 of 1920.

- (c) "passport authority" means an officer or authority empowered under rules made under this Ordinance to issue passports or travel documents and includes the Central Government;
- (d) "prescribed" means prescribed by rules made under this Ordinance;
- (e) "travel document" means a certificate referred to in sub-section (2) of section 4.

Explanation.—For the purposes of section 3, "travel document" includes a certificate which being issued by or under the authority of the Government of a foreign country satisfies the conditions prescribed.

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3. No person shall depart from, or attempt to depart from, India unless he holds in this behalf a passport or travel document.

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- 4. (1) The following classes of passports may be issued under this Ordinance, namely:—
  - (a) ordinary passport;
  - (b) official passport:
  - (c) diplomatic passport.

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- issued (2) The following classes of travel documents may under this Ordinance, namely: -
  - (a) emergency certificate authorising a India;
  - (b) certificate of identity for the purpose of establishing the identity of a person;
    - (c) such other certificate as may be prescribed.
- (3) The Central Government shall, in consonance with the usage and practice followed by it in this behalf, prescribe the classes of persons to whom the classes of passports and travel documents referred to respectively in sub-section (1) and sub-section (2) may be issued under this Ordinance.
- 5. (1) An application for the issue of a passport or a travel docu- Issue of ment under this Ordinance, or for an endorsement on such passport and travel or travel document, for visiting such foreign country or countries documets. as may be specified in the application may be made to the passport authority and shall be in such form, contain such particulars and be accompanied by such fee (if any) not exceeding rupees twenty-five as may be prescribed.

- (2) On receipt of an application, the passport authority, after making such inquiry, if any, as it may consider necessary, shall subject to the other provisions of this Ordinance, by order in writing,-
  - (a) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of the foreign country or countries specified in the application; or
  - (b) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of one or more of the foreign ecountries specified in the application and refuse to make an endorsement in respect of the other country or countries; or
    - (c) refuse to issue the passport or travel document.
  - (3) Where the passport authority makes an order under clause (b) or clause (c) of sub-section (2) on the application of any person, it shall record in writing a brief statement of its reasons for making such order and furnish to that person on demand a copy of the same unless in any case the passport authority is of the opinion that it will not be in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign State or in the interests of the general public to furnish such copy.

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Refusal of passports, travel documents, etc.

- 6. (1) Subject to the other provisions of this Ordinance, the passport authority shall refuse to make an endorsement for visiting any foreign country under clause (b) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely:—
  - (a) that the applicant may, or is likely to, engage in such country in activities prejudicial to the sovereignty and integrity of India;
  - (b) that the presence of the applicant in such country may, or is likely to, be detrimental to the security of India;
  - (c) that the presence of the applicant in such country may, or is likely to, prejudice the friendly relations of India with any foreign State;
  - (d) that in the opinion of the Central Government the presence of the applicant in such country is not in the public interest.
- (2) Subject to the other provisions of this Ordinance, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely:—
  - (a) that the applicant is not a citizen of India;
  - (b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India;
  - (c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;
  - (d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign State;
  - (e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence and sentenced to imprisonment for not less than two years;
  - (f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;
  - (g) that the applicant has no adequate means of supporting himself outside India consistently with his dignity and self-respect as a citizen of India;

- (h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;
- (i) that in the opinion of the Central Government the issue of a passport to the applicant will not be in the public interest.
- 7. A passport or travel document issued under section 5 shall, Duration unless revoked earlier, continue in force for such period as may be passports prescribed and different periods may be prescribed for different and travel documents. classes of passports and travel documents:

Provided that a passport or a travel document may be issued for a shorter period than the prescribed period—

- (a) if the person by whom it is required so desires; or
- (b) if the passport authority, for reasons to be communicated in writing to the applicant, considers in any case that the passport or travel document should be issued for a shorter period.
- 8. Every passport shall, unless the passport authority for reasons Renewal of passto be recorded in writing otherwise determines in any case, be ports. renewable for the same period for which the passport was originally issued and shall be so renewable from time to time and the provisions of this Ordinance (including the provisions as to fees) shall apply to the renewal of a passport as they apply to the issue thereof.

9. The conditions subject to which, and the form in which, a pass- Conditions port or travel document shall be issued or renewed shall be such as of passmay be prescribed:

ports and travel docu-

Provided that different conditions and different forms may be ments. prescribed for different classes of passports or travel documents:

Provided further that a passport or travel document may contain in addition to the prescribed conditions such other conditions as the passport authority may, with the previous approval of the Central Government, impose in any particular case.

- 10. (1) The passport authority may vary or cancel the endorse- Variation, ments on a passport or travel document or with the previous impounding approval of the Central Government vary or cancel the conditions cation of (other than the prescribed conditions) subject to which a passport passports or travel document has been issued and may, for that purpose, documents. require the holder of a passport or a travel document, by notice in writing, to deliver up the passport or travel document to it within such time as may be specified in the notice.
- (2) The passport authority may, on the application of the holder of a passport or a travel document, also vary or cancel the conditions (other than the prescribed conditions) of the passport or travel document.

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- (3) The passport authority may impound or cause to be impounded or revoke a passport or a travel document,—
  - (a) if the passport authority is satisfied that the holder of the passport or travel document is in wrongful possession thereof;
  - (b) if the passport or travel document was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the passport or travel document or any other person on his behalf;
  - (c) if the passport authority deems it necessary so to do in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign State, or in the interests of the general public;
  - (d) if any of the conditions of the passport or travel document has been contravened;
  - (e) if the holder of the passport or travel document has failed to comply with a notice under sub-section (1) requiring him to deliver up the same;
  - (f) if it is brought to the notice of the passport authority that a warrant or summons for the appearance, or a warrant for the arrest, of the holder of the passport or travel document has been issued by a court under any law for the time being in force or if an order prohibiting the departure from India of the holder of the passport or other travel document has been made by any such court and the passport authority is satisfied that a warrant or summons has been so issued or an order has been so made.
  - (4) The passport authority may also revoke a passport or travel document on the application of the holder thereof.
  - (5) Where the passport authority makes an order varying or cancelling the endorsements on, or varying the conditions of, a passport or travel document under sub-section (1) or an order impounding or revoking a passport under sub-section (3), it shall record in writing a brief statement of the reasons for making such order and furnish to the holder of the passport or travel document on demand a copy of the same unless in any case, the passport authority is of the opinion that it will not be in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign State or in the interests of the general public to furnish such a copy.

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- (6) The authority to whom the passport authority is subordinate may, by order in writing, impound or cause to be impounded or revoke a passport or a travel document on any ground on which it may be impounded or revoked by the passport authority and the foregoing provisions of this section shall, as far as may be, apply in relation to the impounding or revocation of passport or travel document by such authority.
- (7) A court convicting the holder of passport or travel document of any offence under this Ordinance or the rules made thereunder may also revoke the passport or travel document:

Provided that if the conviction is set aside on appeal or otherwise the revocation shall become void.

- (8) An order of revocation under sub-section (7) may also be made by an appellate court or by the High Court when exercising its powers of revision.
- (9) On the revocation of a passport or a travel document under this section the holder thereof shall, without delay, surrender the passport or travel document, if the same has not already been impounded, to the authority by whom it has been revoked or to such other authority as may be specified in this behalf in the order of revocation.
- 11. (1) Any person aggrieved by an order of the passport autho-Appeals. rity under clause (b) or clause (c) of sub-section (2) of section 5 or clause (b) of the proviso to section 7 or sub-section (1) or sub-section (3) of section 10 or by an order under sub-section (6) of section 10 of the authority to whom the passport authority is subordinate, may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed:

Provided that no appeal shall lie against any order made by the Central Government.

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

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfied the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in <sup>36</sup> of 1963. accordance with the provisions of the Limitation Act, 1963, with respect to the computation of the periods of limitation thereunder.

- (4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a copy of the statement of the reasons for the order appealed against where such copy has been furnished to the appellant and by such fee (if any) not exceeding rupees twenty-five as may be prescribed.
- (5) In disposing of an appeal, the appellate authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of representing his case.

(6) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final.

ices and

#### **12**. (1) Whoever—

- (a) contravenes the provisions of section 3; or
- (b) knowingly furnishes any false information or suppresses any material information with a view to obtaining a passport or a travel document under this Ordinance or alters or attempts to alter or causes to alter the entries made in a passport or a travel document issued under this Ordinance; or
- (c) fails to produce for inspection his passport or travel document (whether issued under this Ordinance or not) when called upon to do so by the prescribed authority; or
- (d) knowingly uses a passport or a travel document issued to another person; or
- (e) knowingly allows another person to use a passport or a travel document issued to him,

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

- (2) Whoever abets any offence punishable under sub-section (1) shall, if the act abetted is committed in consequence of the abetment, be punishable with the punishment provided in that subsection for that offence.
- (3) Whoever contravenes any condition of a passport or a travel document or any provision of this Ordinance or any rule made thereunder for which no punishment is provided elsewhere in this Ordinance shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

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- (4) Whoever, having been convicted of an offence under this Ordinance, is again convicted of an offence under this Ordinance shall be punishable with double the penalty provided for the latter offence.
- 13. (1) Any officer of customs empowered by a general or Power to special order of the Central Government in this behalf and any officer of police not below the rank of a sub-inspector may arrest without warrant any person against whom a reasonable suspicion exists that he has committed any offence punishable under section 12 and shall, as soon as may be, inform him of the grounds for such arrest.

- (2) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a magistrate having jurisdiction in the case or to the officer in charge of the nearest police station and the provisions of section 61 of the Code of Criminal Procedure, 1898 shall, so far as may be, apply in the case of any such arrest.
- 14. (1) Any officer of customs empowered by a general or special Power of order of the Central Government in this behalf and any officer of seizure. police not below the rank of a sub-inspector may search any place and seize any passport or travel document from any person against whom a reasonable suspicion exists that he has committed any offence punishable under section 12.

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5 of 1898.

- (2) The provisions of the Code of Criminal Procedure, 1898. relating to searches and seizures shall, so far as may be, apply to searches and seizures under this section.
- 15. No prosecution shall be instituted against any person in Previous respect of any offence under this Ordinance without the previous of Central sanction of the Central Government or such officer or authority as Government necesmay be authorized by that Government by order in writing in this sary. behalf.

16. No suit, prosecution or other legal proceeding shall lie against Protection the Government or any officer or authority for anything which is taken in in good faith done or intended to be done under this Ordinance.

of action good faith.

17. A passport or travel document issued under this Ordinance Passports shall at all times remain the property of the Central Government. and travel

documents to be property of Central Governntent.

assports nd travel ocuments ) be inalid for revel to ertain ountries.

- 18. Upon the issue of a notification by the Central Government that a foreign country is—
  - (a) a country which is committing external aggression against India; or
  - (b) a country assisting the country committing external aggression against India; or
    - (c) a country where armed hostilities are in progress; or
  - (d) a country to which travel must be restricted in the public interest because such travel would seriously impair the conduct of foreign affairs of the Government of India,

a passport or travel document issued under this Ordinance for travel through or visiting such country shall cease to be valid for such travel or visit unless in any case a special endorsement in that behalf is made in the prescribed form by the prescribed authority.

Issue of passports and travel documents to persons who are not citizens of India.

19. Notwithstanding anything contained in the foregoing provisions relating to issue of a passport or a travel document, the Central Government may issue, or cause to be issued, a passport or a travel document to a person who is not a citizen of India if that Government is of the opinion that it is necessary so to do in the public interest.

Power to delegate.

- 20. The Central Government may, by notification in the Official Gazette, direct that any power or function which may be exercised or performed by it under this Ordinance other than the power under clause (d) of sub-section (1) of section 6 or the power under clause (i) of sub-section (2) of that section or the power under section 23, may, in relation to such matters and subject to such conditions, if any, as it may specify in the notification, be exercised or performed by—
  - (a) such officer or authority subordinate to the Government: or
- (b) in any foreign country in which there is no diplomatic mission of India by such foreign Consular Officer.

as may be specified in the notification.

Power to exempt.

- 21. Where the Central Government is of the opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette and subject to such conditions, if any, as it may specify in the notification,—
  - (a) exempt any person or class of persons from the operation of all or any of the provisions of this Ordinance or the rules made thereunder; and

16 of 1947. 42 of 1962.

34 of 1926 16 of 1939.

31 of 1947

7 of 1947.

Ordinance.

- (b) as often as may be, cancel any such notification and again subject, by a like notification, the person or class of persons to the operation of such provisions.
- 22. The provisions of this Ordinance shall be in addition to and Ordinance not in derogation of the provisions of the Passport (Entry into to be in addition India) Act, 1920, the Registration of Foreigners Act, 1939, the Foreigners Act, 1946, the Foreign Exchange Regulation Act, 1947, ments. the Trading with the Enemy (Continuance of Emergency Provisions) Act, 1947, the Foreigners Law (Application and Amendment) Act, 1962, and other enactments relating to foreigners and foreign exchange.

exchange.

23. (1) The Central Government may, by notification in the Power to make
Official Gazette, make rules for carrying out the purposes of this 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 appointment, jurisdiction, control and functions of passport authorities;
  - (b) the classes of persons to whom passports and travel documents referred to respectively in sub-section (1) and subsection (2) of section 4 may be issued;
  - (c) the form and particulars of application for the issue or renewal of a passport or travel document or for endorsement on a passport or a travel document and where the application is for the renewal, the time within which it shall be made;
  - (d) the period for which passports and travel documents shall continue in force;
  - (e) the form in which and the conditions subject to which the different classes of passports and travel documents may be issued, renewed, varied, impounded or revoked:
  - (f) the fees payable in respect of any application for the issue or renewal of a passport or travel document or for varying any endorsement or making a fresh endorsement on a passport or a travel document or for issue of a duplicate passport or travel document and the fees payable in respect of any appeal under this Ordinance:
  - (g) the appointment of appellate authorities under subsection (1) of section 11, the jurisdiction of, and the procedure which may be followed by, such appellate authorities:

34 of 1920. 16 of 1939. 31 of 1947. 7 of 1947. 16 of 1947.

42 of 1962.

- (h) 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 successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, 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.

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- 24. In the Indian Passport Act, 1920, in sub-section (1) of section 1, for the words and figures "the Indian Passport Act, 1920", the words, brackets and figures "the passport (Entry into India) Act, 1920" shall be substituted.
- 25. Every passport and every travel document issued by or under the authority of the Central Government before the commencement of this Ordinance and in force immediately before such commencement shall be deemed to have been issued under this Ordinance and shall subject to the provisions of this Ordinance, continue in force—
  - (a) for the unexpired portion of the period for which such passport or travel document had been issued; or
  - (b) for a period of five years from the commencement of this Ordinance,

whichever is shorter.

S. RADHAKRISHNAN,

President.

S. P. SEN-VARMA, Secy. to the Govt. of India.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1967

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ग्रसाधारण

**EXTRAORDINARY** 

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PART II-Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

मं० 31] नई दिल्ली, वृहस्पतिवार, सितम्बर 14, 1967/भाद्रा 23, 1889 क्ष No 31] NEW DELHI, THURSDAY, SEPTEMBER 14, 1967/BHADRA 23, 1889

इस भाग में भिन्न पष्ठ संख्या दी जाती है जिससे कि यह ग्रलग संकलन के रूप में रखा जा संके Separate paging is given to this Part in order that it may be filed as a separate compilation.

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 4th September, 1967/Bhadra 23, 1889 (Saka)

THE TAXATION LAWS (AMENDMENT) ORDINANCE,

No. 5 OF 1967 Services

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

An Ordinance further to amend the Wealth-tax Act, 1957, the Gift-tax Act, 1958, and the Income-tax Act, 1961, and to amend the Finance (No. 2) Act, 1967.

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 Taxation Laws (Amendment) Ordinance, 1967.

Laws Short title and commence-ment.

of of

- (2) Section 5 shall come into force at once and the remaining provisions of this Ordinance shall come into force on the 1st day of October, 1967.
- 2. In the Wealth-tax Act, 1957, in sections 31 and 34A, for the of words "six per cent.", the words "nine per cent." shall be substituted.
- 3. In the Gift-tax Act, 1958, in sections 32 and 33A, for the words of "six per cent.", the words "nine per cent." shall be substituted.
  - 4. In the Income-tax Act, 1961,—
  - (i) in section 37, after sub-section (2), the following subsection shall be inserted, namely:—
    - "(2A) Notwithstanding anything contained in subsection (1) or sub-section (2), no allowance shall be made in respect of so much of the expenditure in the nature of entertainment expenditure incurred by any assessee during any previous year which expires after the 30th day of September, 1967, as is in excess of the aggregate amount computed as hereunder:—
      - (i) on the first Rs. 10,00,000 of the profits and gains of the business or profession (computed before making any allowance under section 33 or section 33A or in respect of entertainment expenditure)

at the rate of  $\frac{1}{2}$  per cent. or Rs. 5,000, whichever is higher;

(ii) on the next Rs. 40,00,000 of the profits and gains of the business or profession (computed in the manner aforesaid)

at the rate of  $\frac{1}{4}$  per cent.;

(iii) on the next Rs. 1,20,00,000 of the profits and gains of the business or profession (computed in the manner aforesaid)

at the rate of per cent.;

(iv) on the balance of the profits and gains of the business or profession (computed in the manner aforesaid) nil:

Provided that where the previous year of any assessee falls partly before and partly after the 30th day of September, 1967, the allowance in respect of such expenditure incurred during the previous year shall not exceed—

- (a) in the case of a company—
- (i) in respect of such expenditure incurred before the 1st day of October, 1967, the sum which bears to the aggregate amount computed at the rate or rates specified in sub-section (2), the same proportion as the number of days comprised in the period commencing on the first day of such previous year and ending with the 30th day of September, 1967, bears to the total number of days in the previous year;
- (ii) in respect of such expenditure incurred after the 30th day of September, 1967, the sum which bears to the aggregate amount computed at the rate or rates specified in this sub-section, the same proportion as the number of days comprised in the period commencing on the 1st day of October, 1967, and ending with the last day of the previous year bears to the total number of days in the previous year;
  - (b) in any other case—
- (i) in respect of such expenditure incurred before the 1st day of October, 1967, the amount admissible under sub-section (1);
- (ii) in respect of such expenditure incurred after the 30th day of September, 1967, the sum which bears to the aggregate amount computed at the rate or rates specified in this sub-section, the same proportion as the number of days comprised in the period commencing on the 1st day of October, 1967, and ending with the last day of the previous year bears to the total number of days in the previous year.";
- (ii) in sections 132A, 139, 201, 213 to 217, 220, 243 and 244, for the words "six per cent.", the words "nine per cent." shall be substituted;
  - (iii) in section 280X,—
  - (a) in sub-section (1), clause (b) of the proviso shall be omitted;

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

"annuity deposit required to be made" shall mean the amount of annuity deposit calculated on the adjusted total income of the depositor at the rate or rates specified in the Finance Act of the relevant year, but where the amount so calculated exceeds the amount computed in the manner specified in clause (ii) of this Explanation (the amount so computed being hereinafter referred to as the specified amount), then, the annuity deposit required to be made shall mean the specified amount.

- (ii) The specified amount referred to in clause (i) of this Explanation shall be—
  - (a) in a case where the total income (as computed without making any allowance under section 280O) exceeds fifteen thousand rupees but does not exceed twenty thousand rupees, an amount equal to one per cent. of the adjusted total income of the depositor;
  - (b) in a case where the total income (computed in the manner aforesaid) exceeds twenty thousand rupees but does not exceed twenty-five thousand rupees, an amount equal to—
    - (1) the aggregate of the sum calculated at one per cent. on so much of the adjusted total income as does not exceed twenty thousand rupees and the sum by which the total income (computed in the manner aforesaid) exceeds twenty thousand rupees, or
  - '(2) one and a half per cent. of the adjusted total income of the depositor, whichever is less;
  - (c) in a case where the total income (computed in the manner aforesaid) exceeds twenty-five thousand rupees, an amount equal to the aggregate of the sum calculated at one and a half per cent. on so much of the adjusted total income as does not exceed twenty-five thousand rupees and the sum by which the total income (computed in the manner aforesaid) exceeds twenty-five thousand rupees.'.

5. In the Finance (No. 2) Act, 1967,—

Amendment of

- (i) in section 3, for sub-section (1), the following sub-section Act 20 of shall be, and shall be deemed always to have been, substituted. namely:—
  - "(1) Save as otherwise provided in Chapter XXIIA of the Income-tax Act, annuity deposit shall be made by every person to whom the provisions of that Chapter apply-
    - (a) for the assessment year commencing on the 1st day of April, 1967, at the rate or rates specified in Part I of the Second Schedule; and
    - (b) during the financial year commencing on the 1st day of April, 1967 (in relation to the adjusted total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1968), at the rate or rates specified in Part II of the Second Schedule.";
- (ii) for the Second Schedule, the following Schedule shall be, and shall be deemed always to have been, substituted. namely:---

#### 'THE SECOND SCHEDULE

(See section 3)

#### PART I

RATES OF ANNUITY DEPOSIT FOR THE ASSESSMENT YEAR 1967-68.

- (i) In the case of any depositor whose Nil.total income does not exceed Rs. 15,000
- (ii) In the case of any depositor whose per cent. total income exceeds Rs. 15,000 but of the adjusted does not exceed Rs. 20,000 total income:

Provided that the annuity deposit to be made shall in no case exceed half the amount by which the total income exceeds Rs. 15,000.

(iii) In the case of a depositor whose total  $7\frac{1}{2}$  per cent. of income exceeds Rs. 20,000 but does not the adjusted Rs. 40,000 exceed total income:

Provided that the annuity deposit to be made shall in no case exceed the aggregate of the following sums, namely:-

(a) an amount calculated at five per cent, on so much of the adjusted total income as does not exceed Rs. 20,000;

(b) one-half of the amount by which the total income exceeds Rs. 20,000.

(iv) In the case of a depositor whose total 10 per cent. of income exceeds Rs. 40,000 but does not exceed Rs. 70,000 total income:

Provided that the annuity deposit to be made shall in no case exceed the aggregate of the following sums, namely:—

- (a) an amount calculated at seven and a half per cent. on so much of the adjusted total income as does not exceed Rs. 40,000;
- (b) one-half of the amount by which the total income exceeds Rs. 40,000.
  - (v) In the case of a depositor whose total  $12\frac{1}{2}$  per cent. income exceeds Rs. 70,000 of the adjusted total income:

Provided that the annuity deposit to be made shall in no case exceed the aggregate of the following sums, namely:—

- (a) an amount calculated at ten per cent. on so much of the adjusted total income as does not exceed Rs. 70,000;
- (b) one-half of the amount by which the total income exceeds Rs. 70,000.

#### PART II

RATES OF ANNUITY DEPOSIT TO BE MADE DURING THE FINANCIAL YEAR 1967-68

- (i) In the case of any depositor whose total income does not exceed Rs. 15,000
- (ii) In the case of any depositor whose 6 per cent. of total income exceeds Rs. 15,000 but the adjusted does not exceed Rs. 20,000. total income:

Nil.

Provided that the annuity deposit to be made shall in no case exceed half the amount by which the total income exceeds Rs. 15,000.

(iii) In the case of a depositor whose total 9 per cent. of income exceeds Rs. 20,000 but does the adjusted not exceed Rs. 40,000. total income:

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Provided that the annuity deposit to be made shall in no case exceed the aggregate of the following sums, namely:—

- (a) an amount calculated at six per cent. on so much of the adjusted total income as does not exceed Rs. 20,000;
- (b) one-half of the amount by which the total income exceeds Rs. 20,000.
  - (iv) In the case of a depositor whose total 12 per cent, of income exceeds Rs. 40,000 but does total adjusted not exceed Rs. 70,000 total income:

Provided that the annuity deposit to be made shall in no case exceed the aggregate of the following sums, namely:—

- (a) an amount calculated at nine per cent. on so much of the adjusted total income as does not exceed Rs. 40,000;
- (b) one-half of the amount by which the total income exceeds Rs. 40,000.
  - (v) In the case of a depositor whose total 15 per cent. of income exceeds Rs. 70,000 the adjusted total income:

Provided that the annuity deposit to be made shall in no case exceed the aggregate of the following sums, namely:—

- (a) an amount calculated at twelve per cent. on so much of the adjusted total income as does not exceed Rs. 70,000;
- (b) one-half of the amount by which the total income exceeds Rs. 70,000.

Explanation.—In this Schedule, "total income" means total income computed in the manner laid down in the Income-tax Act without making any allowance under section 2800 of that Act.'.

ZAKIR HUSAIN,

President.

S. P. SEN-VARMA, Secy. to the Govt. of India.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD. NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1967.



# BIRCH of USING The Gazette of India

ग्रसाधारण

#### EXTRAORDINARY

भाग II-खण्ड- 1

PART II-Section 1

प्राधिकार से प्रकाशित

#### PUBLISHED BY AUTHORITY

संख्या 32] नई दिल्ली, श्रानिवार, सितम्बर 16, 1967/भाइ 25, 1889 No. 32] NEW DELHI, SATURDAY, SEPTEMBER 16, 1967/BHADRA 25, 1889

इस भाग में भिन्न पृष्ठ संख्या दो जाती है जिससे कि यह श्रलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

### MINISTRY OF LAW (Legislative Department)

## THE ESSENTIAL COMMODITIES (AMENDMENT) ORDINANCE, 1967

No. 6 OF 1967

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

An Ordinance further to amend the Essential Commodities Act, 1955, and to continue the Essential Commodities (Amendment) Act, 1964, for a further period.

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 commence-ment.

- 1. (1) This Ordinance may be called the Essential Commodities (Amendment) Ordinance, 1967.
  - (2) It shall come into force at once.

Act 10 of 1955 to be temporarily amended. 2. During the period of operation of this Ordinance, the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 10.

Amendment of section 2.

- 3. In section 2 of the principal Act, after clause (c), the following clause shall be inserted, namely:—
  - '(cc) "order" includes a direction issued thereunder,'.

Amendment of section 3.

4. In section 3 of the principal Act, in sub-section (2), in clause (j), the following shall be inserted at the end, namely:—

"and of any books of accounts and documents which in his opinion would be useful for, or relevant to, any proceedings under this Act and the return of such books of accounts and documents to the person from whom they were seized after copies thereof or extracts therefrom as certified by that person in the manner specified in the order have been taken".

Amendment of section 6A.

- 5. In section 6A of the principal Act,—
- (a) for the words "foodgrains, edible oilseeds or edible oils are seized", in both the places where they occur, the words "essential commodity is seized" shall be substituted;
- (b) for the words "they may", the words "it may" shall be substituted;
- (c) for the words "may order confiscation of the food-grains, edible oilseeds or edible oils", the words "may order confiscation of the essential commodity so seized" shall be substituted.

Amendment of section 6B

- 6. In section 6B of the principal Act,—
- (a) for the words "any foodgrains, edible oilseeds or edible oils", the words "any essential commodity" shall be substituted;
- (b) for the word "articles", in both the places where it occurs, the words "essential commodity" shall be substituted;

- (c) for the words "they are seized", the words "it is seized" shall be substituted.
- 7. In section 6C of the principal Act, in sub-section (2),—

Amendment of section 6C

- (a) for the words "return the foodgrains or edible oilseeds section 6C. or edible oils seized", the words "return the essential commodity seized" shall be substituted;
- (b) for the words "as if the foodgrains, edible oilseeds or edible oils, as the case may be,", the words "as if the essential commodity" shall be substituted;
- (c) for the word "articles", the words "the essential commodity" shall be substituted;
- (d) for the words, brackets, figures and letter "in accordance with the provisions of sub-section (3B) of section 3", the words, brackets, figures and letter "in the case of foodgrains, edible oilseeds or edible oils in accordance with the provisions of sub-section (3B) of section 3 and in the case of any other essential commodity in accordance with the provisions of sub-section (3) of that section" shall be substituted.
- 8. In section 7 of the principal Act,-

Amendment of section 7.

#### (1) in sub-section (1)—

- (a) for the words and figure "If any person contravenes any order made under section 3", the words and figure "If any person contravenes, whether knowingly, intentionally or otherwise, any order made under section 3" shall be substituted;
- (b) in sub-clause (ii) of clause (a), for the words "three years", the words "five years" shall be substituted;
- (c) for the proviso to clause (a), the following proviso shall be substituted, namely:

"Provided that in the case of a first offence, if the Court is of opinion that a sentence of fine only will meet the ends of justice, it may, for reasons to be recorded, refrain from imposing a sentence of imprisonment and in the case of a second or subsequent offence, the Court shall impose a sentence of imprisonment and such imprisonment shall not be less than one month; and";

(d) for clause (b) [excluding the proviso], the following shall be substituted, namely:—

- "(b) any property in respect of which the order has been contravened or such part thereof as to the Court may seem fit including any packages, coverings or receptacles in which the property is found and any animal, vehicle, vessel or other conveyance used in carrying the property, shall be forfeited to the Government:";
- (2) in sub-section (2), for the words "three years", the words "five years" shall be substituted;
- (3) after sub-section (2), the following sub-section shall be inserted, namely:—
  - "(3) Where a person having been convicted of an offence under sub-section (1) is again convicted of an offence under that sub-section for contravention of an order in respect of an essential commodity, the Court by which such person is convicted shall, in addition to any penalty which may be imposed on him under that sub-section, by order, direct that that person shall not carry on any business in that essential commodity for such period, not being less than six months, as may be specified by the Court in the order."
- 9. In section 9 of the principal Act, for the words "three years" the words "five years" shall be substituted.
- 10. After section 10 of the principal Act, the following section shall be inserted, namely:—
  - "10A. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence punishable under this 5 of 1898 Act shall be cognizable and bailable.".
- 11. The duration of the Essential Commodities (Amendment) Act, 1964, is further extended for the period up to and including the 31st day of December, 1969, and accordingly that Act shall have effect subject to the modification that in section 1 of that Act, in subsection (3), for the words, figures and letters "the 31st day of December, 1967", the words, figures and letters "the 31st day of December, 1969" shall be substituted.

ZAKIR HUSAIN,

President.

S. P. SEN-VARMA,

Secy. to the Govt, of India.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1967.

Amendment of section 9.

Insertion of new section 10A.
Offences to be cognizable and bailable.
Continuance of Act 47 of

1964.

:98

ग्रसाधारण EXTRAORDINARY

भाग II\_खण्ड-1

PART II—Section 1

प्राधिकार में प्रकाशित

#### PUBLISHED BY AUTHORITY

सं० 33] नई दिल्ली, शनिवार, श्रक्तूबर 7, 1967/श्रश्चिन 15, 1889

No. 33] NEW DELHI, SATURDAY, OCTOBER 7, 1967/ASVINA 15, 1889

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह ग्रलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 7th October, 1967/Asvina 15, 1889 (Saka)

THE COURT-FEES (DELHI AMENDMENT)
ORDINANCE, 1967

No. 7 of 1967

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

An Ordinance further to amend the Court-fees Act, 1870, as in force in the Union territory of Delhi.

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 Court-fees (Delhi Short title, extent and commencement.

(287)

- (2) It extends to the whole of the Union territory of Delhi.
- (3) It shall come into force at once.

Act 7 of 2. During the period of operation of this Ordinance, the Court1870, as in fees Act, 1870, as in force in the Union territory of Delhi (hereinafter Delhi, to be referred to as the principal Act), shall have effect subject to the temporarily amended.

amendments specified in sections 3 and 4.

Amendment of section 4

- 3. In section 4 of the principal Act,—
  - (a) in the marginal heading to the first paragraph, for the words "in High Courts in their extraordinary jurisdiction", the words "in the High Court of Delhi in its ordinary or extraordinary jurisdiction" shall be substituted;
  - (b) in the first paragraph, for the words "any of the said High Courts in any case coming before such Court in the exercise of its extraordinary original civil jurisdiction", the words "the High Court of Delhi in any case coming before that Court in the exercise of its ordinary or extraordinary original civil jurisdiction" shall be substituted;
  - (c) in the third paragraph, for the words "other than", the word "including" shall be substituted;
  - (d) after the fifth paragraph "or in the exercise of its jurisdiction as a Court of reference or revision;", the following paragraphs shall be inserted, namely:—

"or in the exercise of its jurisdiction to issue directions, orders or writs under the Constitution of India;

or in the exercise of its jurisdiction in any other matter;".

issue writs, etc. in the exercise of any other jurisdiction.

Amendment

of Schedule

II.

in the exercise of juris-

diction

4. In Schedule II to the principal Act, in clause (d) of article 1, after sub-clause (ii), the following sub-clause shall be inserted, namely:—

"(ii-A) under article 226 of the Constitution of India other than petitions for habeas corpus and petitions arising out of criminal proceedings.

Fifty rupees.".

the respective dates on which such suits or

5. (1) Notwithstanding anything contained in the principal Act or Levy of fees in the principal Act as amended by this Ordinance, fees shall be instituted in suits, etc., levied in suits or other proceedings instituted on or after the 31st before comday of October, 1966 and pending immediately before the commence- of ment of this Ordinance in the High Court of Delhi by virtue, and Ordinance. in the exercise, of its ordinary original civil jurisdiction as if the principal Act, as amended by this Ordinance, had been in force on

(2) Any fees levied in respect of suits or other proceedings instituted before the High Court of Delhi by virtue, and in exercise, of its ordinary original civil jurisdiction, on or after the 31st day of October, 1966 and disposed of before the commencement of this Ordinance shall be deemed to have been levied in accordance with law.

ZAKIR HUSAIN.

proceedings were

President.

V. N. BHATIA, Secy. to the Govt. of India.

#### **ERRATA**

In the Punjab Reorganisation Act, 1966 (No. 31 of 1966) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 18th September, 1966,—

Page 358—

instituted.

- 1. In section 2—
  - (i) in clause (h), line 2, for "th" read "the":
  - (ii) in clause (i), line 2, for "the means" read "the Union, means".
- 2. In section 3, sub-section (1), clause (c), for "and Naraingarh" read "and Naraingarh tehsils of".

Page 359—

In section 3, sub-section (2), line 2, for "as the" read "as the Jind".

Page 361-

In section 6, sub-section (2), clause (i), line 4, for "fo m" read "form".

Page 365-

In section 19, line, 6, after "Haryana" insert ",".

Page 377—

In section 49, in the second proviso, line 3, for "suc" read "such".

Page 392-

In section 75, line 11, for "croporate" read "corporate".

Page 411—

In the Second Schedule, in item 4, column 1, for the last word "J umro" read "Jhumro".

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असाधारण

#### EXTRAORDINARY

भारा 11-खण्ड-1

#### PART II—Section 1

प्राधिकार से प्रकाशित

#### PUBLISHED BY AUTHORITY

सं० 35] नई दिल्ली शनिवार, श्रम्टूबर 21, 1967/आध्विना 29, 1889 No. 35] NEW DELHI, SATURDAY, OCTOBER 21, 1967/ ASVINA 29, 1889

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह ग्रलग संकलन के रूप में रखा जा सके।

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

#### MINISTRY OF LAW

(Legislative Department)

New Delhi, the 21st October, 1967/Asvina 29, 1889 (Saka)

### THE ESSENTIAL COMMODITIES (SECOND AMENDMENT) ORDINANCE, 1967

No. 8 of 1967

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

An Ordinance further to amend the Essential Commodities Act, 1955.

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:—

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- 1. (1) This Ordinance may be called the Essential Commodities mencement. (Second Amendment) Ordinance, 1967.
  - (2) It shall come into force at once.

Act 10 of 1955 to be temporarily amended.

2. During the period of operation of this Ordinance, the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3, 4 and 5.

Amendment of section 2.

- 3. In section 2 of the principal Act, after clause (d), the following clause shall be inserted, namely:-
  - '(e) "sugar" means—
  - (i) any form of sugar containing more than ninety per cent. of sucrose, including sugar candy;
  - (ii) khandsari sugar or bura sugar or crushed sugar or any sugar in crystalline or powdered form; or
  - (iii) sugar in process in vacuum pan sugar factory or raw sugar produced therein.'.

Amendment of section 3.

- 4. In section 3 of the principal Act, after sub-section (3B), the following sub-section shall be inserted namely:—
  - '(3C) Where any producer is required by an order made with reference to clause (f) of sub-section (2) to sell any kind of sugar (whether to the Central Government or a State Government or to an officer or agent of such Government or to any other person or class of persons) and either no notification in respect of such sugar has been issued under sub-section (3A) or any such notification, having been issued, has ceased to remain in force by efflux of time, then, notwithstanding anything contained in sub-section (3), there shall be paid to that producer an amount therefor which shall be calculated with reference to such price of sugar as the Central Government may, by order, determine, having regard to-
    - (a) the minimum price fixed for sugarcane by the Central Government under this section;
      - (b) the manufacturing cost of sugar;
      - (c) the duty or tax, if any, paid or payable thereon; and
    - (d) the securing of a reasonable return on the capital employed in the business of manufacturing sugar,

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and different prices may be determined, from time to time, for different areas or for different factories or for different kinds of sugar.

Explanation.—For the purposes of this sub-section, "producer" means a person carrying on the business of manufacturing sugar.'.

5. In section 6C of the principal Act, in sub-section (2), for the Amendment words, brackets, figures and letter "and such price shall be determined in the case of foodgrains, edible oil seeds or edible oils in accordance with the provisions of sub-section (3B) of section 3 and in the case of any other essential commodity in accordance with the provisions of sub-section (3) of that section.", the following shall be substituted, namely:—

"and such price shall be determined—

- (i) in the case of foodgrains, edible oil seeds or edible oils, in accordance with the provisions of sub-section (3B) of section 3;
- (ii) in the case of sugar, in accordance with the provisions of sub-section (3C) of section 3; and
- (iii) in the case of any other essential commodity, in accordance with the provisions of sub-section (3) of section 3.".

ZAKIR HUSAIN, President.

V. N. BHATIA, Secy. to the Govt. of India.