रजिस्ट्री सं० डी-(डी)-72 REGISTERED No. D-(D)-72

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 3] नई दिल्ली, बृहस्पतिवार, जनवरी 12, 1984/पौष 22, 1905
No. 3] NEW DELHI, THURSDAY, JANUARY 12, 1984/PAUSA 22, 1905

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, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 12th January, 1984/Pausa 22, 1905 (Saka)

The following Act of Parliament received the assent of the President on the 12th January, 1984, and is hereby published for general information:—

THE BANKING LAWS (AMENDMENT) ACT, 1983

No. 1 OF 1984

[*12th January*, 1984]

An Act further to amend the Bankers' Books Evidence Act, 1891, the Reserve Bank of India Act, 1934, the Banking Regulation Act, 1949, the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959, the Deposit Insurance and Credit Guarantee Corporation Act, 1961, the Banking Companies (Acquisition and transfer of Undertakings) Act, 1970, the Regional Rural Banks Act, 1976 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;

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

CHAPTER I
PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Banking Laws (Amendment) Act, 1983.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act, and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

CHAPTER II

AMENDMENTS TO THE BANKERS' BOOKS EVIDENCE ACT, 1891

Amendment of Act 16 of 1891.

2. In the Bankers' Books Evidence Act, 1891,—

(*a*) in section 2,—

(*i*) for clause (*4*), the following clause shall be substituted, namely:—

'(*4*) "legal proceeding" means,—

(*i*) any proceeding or inquiry in which evidence is or may be given;

(*ii*) an arbitration; and

(*iii*) any investigation or inquiry under the Code of Criminal Procedure, 1973, or under any other law for the time being in force for the collection of evidence, conducted by a police officer or by any other person (not being a magistrate) authorised in this behalf by a magistrate or by any law for the time being in force;'; 2 of 1974.

(*ii*) in clause (*8*), for the words "such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title", the following shall be substituted, namely:—

"and where the copy was obtained by a mechanical or other process which in itself ensured the accuracy of the copy, a further certificate to that effect, but where the book from which such copy was prepared has been destroyed in the usual course of the bank's business after the date on which the copy had been so prepared, a further certificate to that effect, each such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title";

(*b*) after section 7, the following section shall be inserted, namely:—

Order of court to be construed to be order made by specified officer.

'8. In the application of sections 5, 6 and 7 to any investigation or inquiry referred to in sub-clause (*iii*) of clause (*4*) of section 2, the order of a court or a Judge referred to in the said sections shall be construed as referring to an order made by an officer of a rank not lower than the rank of a Superintendent of Police as may be specified in this behalf by the appropriate Government.

Explanation.—In this section, "appropriate Government" means the Government by which the police officer or any other person conducting the investigation or inquiry is employed.'.

CHAPTER III

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

Amendment of section 17.

3. In section 17 of the Reserve Bank of India Act, 1934 (hereafter in this Chapter referred to as the Reserve Bank Act), in clause (*4B*), in the proviso, for the words "three crores of rupees", the words "fifteen crores of rupees" shall be substituted. 2 of 1934.

Amendment of section 33.

4. In section 33 of the Reserve Bank Act, in sub-clause (*a*) of clause (*i*) of sub-section (*6*), for the word "notified", the word "approved" shall be substituted.

Amendment of section 40.

5. In section 40 of the Reserve Bank Act in the *Explanation*, for the words and figures "Foreign Exchange Regulation Act, 1947", the words and figures "Foreign Exchange Regulation Act, 1973" shall be substituted.

7 of 1947.
46 of 1973.

Amendment of section 42.

6. In section 42 of the Reserve Bank Act,—

(*a*) in the *Explanation* to sub-section (*1*),—

(*i*) in clause (*a*), for the words "of a week", the words "of a fortnight" shall be substituted;

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

'(*b*) "fortnight" shall mean the period from Saturday to the second following Friday, both days inclusive;';

(*iii*) in clause (*c*),—

(*A*) in sub-clause (*iii*), after the words "State Government", the words and figures "or from the National Co-operative Development Corporation established under the National Co-operative Development Corporation Act, 1962" shall be inserted;

26 of 1962.

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

"(*v*) in the case of a Regional Rural Bank, also any loan taken by such bank from its Sponsor Bank;";

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

"(*iiia*) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;";

40 of 1980.

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

"(*iiia*) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act 1980;";

40 of 1980.

(*b*) to sub-section (*1A*), the following proviso shall be added, namely:—

"Provided that the Bank may, by a separate notification in the Gazette of India, specify different dates in respect of a bank subsequently included in the Second Schedule".;

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

"(*1C*) The Bank may, for the purposes of this section, specify from time to time with reference to any transaction or class of transactions that such transaction or transactions shall be regarded as liability in India of a scheduled bank, and if any

question arises as to whether any transaction or class of transactions shall be regarded, for the purposes of this section, as liability in India of a scheduled bank, the decision of the Bank thereon shall be final.";

(*d*) in sub-section (*2*),—

(*i*) for the words "at the close of business on each Friday, and every such return shall be sent not later than five days after the date to which it relates", the words "at the close of business on each alternate Friday, and every such return shall be sent not later than seven days after the date to which it relates" shall be substituted;

(*ii*) in the second proviso, after the words "Provided further that where", the words "such alternate" shall be inserted;

(*iii*) for the third proviso, the following proviso shall be substituted, namely:—

"Provided also that where the Bank is satisfied that the furnishing of a fortnightly return under this sub-section is impracticable in the case of any scheduled bank by reason of the geographical position of the bank and its branches, the Bank may allow such bank—

(*i*) to furnish a provisional return for the fortnight within the period aforesaid to be followed by a final return not later than twenty days after the date to which it relates, or

(*ii*) to furnish in lieu of a fortnightly return a monthly return to be sent not later than twenty days after the end of the month to which it relates giving the details specified in this sub-section in respect of such bank at the close of business for the month.";

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

"(*2A*) Where the last Friday of a month is not an alternate Friday for the purpose of sub-section (*2*), every scheduled bank shall send to the Bank, a special return giving the details specified in sub-section (*2*) as at the close of business on such last Friday or where such last Friday is a public holiday under the Negotiable Instruments Act, 1881 as at the close of business on the preceding working day and such return shall be sent not later than seven days after the date to which it relates.";

26 of 1881.

(*f*) in sub-sections (*3*) and (*3A*), for the word "week" wherever it occurs, the word "fortnight" shall be substituted.

Amendment of section 43.

7. In section 43 of the Reserve Bank Act, for the word "week", the word "fortnight" shall be substituted.

Amendment of section 45H.

8. In section 45H of the Reserve Bank Act, for the words and figures "a banking institution notified under section 51 of that Act", the words, brackets, letters and figures "a corresponding new bank as defined in clause (*da*) of section 5 of that Act or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959" shall be substituted.

38 of 1959.

Amendment of section 45I.

9. In section 45I of the Reserve Bank Act,—

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

'(*bb*) "deposit" includes and shall be deemed always to have included any receipt of money by way of deposit or loan or in any other form, but does not include,—

(*i*) amounts raised by way of share capital;

(*ii*) amounts contributed as capital by partners of a firm;

(*iii*) amounts received from a scheduled bank or a co-operative bank or any other banking company as defined in clause (*c*) of section 5 of the Banking Regulation Act, 1949;

10 of 1949.

(*iv*) any amount received from,—

(*a*) the Development Bank,

(*b*) a State Financial Corporation,

(*c*) any financial institution specified in or under section 6A of the Industrial Development Bank of India Act, 1964, or

18 of 1964.

(*d*) any other institution that may be specified by the Bank in this behalf;

(*v*) amounts received in the ordinary course of business, by way of—

(*a*) security deposit,

(*b*) dealership deposit,

(*c*) earnest money, or

(*d*) advance against orders for goods, properties or services;

(*vi*) any amount received from an individual or a firm or an association of individuals not being a body corporate, registered under any enactment relating to money lending which is for the time being in force in any State; and

(*vii*) any amount received by way of subscriptions in respect of a chit.

Explanation I.—"Chit" has the meaning assigned to it in clause (*b*) of section 2 of the Chit Funds Act, 1982.

40 of 1982.

Explanation II.—Any credit given by a seller to a buyer on the sale of any property (whether movable or immovable) shall not be deemed to be deposit for the purposes of this clause;';

(*ii*) in clause (*d*), the words ", of which the capital subscribed by its partners exceeds one lakh of rupees" shall be omitted;

(*iii*) in clause (*e*), for the words ", co-operative society or firm", the words "or co-operative society" shall be substituted.

Insertion of new Chapter after Chapter IIIB.

10. After Chapter IIIB of the Reserve Bank Act, the following Chapter shall be inserted, namely:—

"CHAPTER IIIC

PROHIBITION OF ACCEPTANCE OF DEPOSITS BY UNINCORPORATED BODIES

Interpretation.

45R. The words and expressions used in this Chapter and defined in Chapter IIIB shall have the meanings respectively assigned to them therein.

Deposits not to be accepted in certain cases.

45S. (*1*) No person, being an individual or a firm or an unincorporated association of individuals shall, at any time, have deposits from more than the number of depositors specified against each, in the table below:—

TABLE

(i) Individual	Not more than twenty-five depositors excluding depositors who are relatives of the individual.
(*ii*) Firm	Not more than twenty-five depositors per partner and not more than two hundred and fifty depositors in all, excluding, in either case, depositors who are relatives of any of the partners.
(*iii*) Unincorporated association of individuals	Not more than twenty-five depositors per individual and not more than two hundred and fifty depositors in all, excluding, in either case, depositors who are relatives of any of the individuals constituting the association.

(*2*) Where at the commencement of section 10 of the Banking Laws (Amendment) Act, 1983, the deposits held by any such person are not in accordance with sub-section (*1*), he shall, before the expiry of a period of two years from the date of such commencement, repay such of the deposits as are necessary for bringing the number of depositors within the relative limits specified in that sub-section.

Explanation.—For the purposes of this section,—

(*a*) a person shall be deemed to be a relative of another if, and only if,—

(*i*) they are members of a Hindu undivided family; or

(*ii*) they are husband and wife; or

(*iii*) the one is related to the other in the manner indicated in the List of relatives below:—

List of Relatives

1. Father. 2. Mother (including step-mother). 3. Son (including step-son). 4. Son's wife. 5. Daughter (including step-daughter). 6. Father's father. 7. Father's mother. 8. Mother's mother. 9. Mother's father. 10. Son's son. 11. Son's son's wife. 12. Son's daughter. 13. Son's daughter's husband. 14. Daughter's husband. 15. Daughter's son. 16. Daughter's son's wife. 17. Daughter's daughter. 18. Daughter's daughter's husband. 19. Brother (including step-brother). 20. Brother's wife. 21. Sister (including step-sister). 22. Sister's husband;

(*b*) a person in whose favour a credit balance is outstanding for a period not exceeding six months in any account relating to mutual dealings in the ordinary course of trade or business shall not, on account of such balance alone, be deemed to be a depositor.

Power to issue search warrants.

45T. (*1*) Any court having jurisdiction to issue a search warrant under the Code of Criminal Procedure, 1973 may, on an application by an officer of the Bank or of the State Government authorised in this behalf stating his belief that certain documents relating to acceptance of deposits in contravention of the provisions of section 45S are secreted in any place within the local limits of the jurisdiction of such court, issue a warrant to search for such documents.

2 of 1974.

(*2*) A warrant issued under sub-section (*1*) shall be executed in the same manner and shall have the same effect as a search warrant issued under the Code of Criminal Procedure, 1973.".

2 of 1974.

Amendment of section 58B.

11. In section 58B of the Reserve Bank Act, after sub-section (5), the following sub-sections shall be inserted, namely:—

"(*5A*) If any person contravenes any provision of section 45S, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of deposit received by such person in contravention of that section, or two thousand rupees, whichever is more, or with both:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall not be less than one year and the fine shall not be less than one thousand rupees.

2 of 1974.

(*5B*) Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to impose a sentence of fine in excess of the limit specified in that section on any person convicted under sub-section (*5A*).".

Amendment of section 58E.

12. In section 58E of the Reserve Bank Act, to sub-section (*1*), the following proviso shall be added, namely:—

"Provided that in respect of any offence punishable under sub-section (*5A*) of section 58B, a complaint in writing may also be made by an officer of the State Government, generally or specially authorised in writing in this behalf by that Government.".

CHAPTER IV

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

Amendment of section 5.

13. In section 5 of the Banking Regulation Act, 1949 (hereafter in this Chapter referred to as the Banking Regulation Act), 10 of 1949.

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

'(*a*) "approved securities" means—

(*i*) securities in which a trustee may invest money under clause (*a*), clause (*b*), clause (*bb*), clause (*c*) or clause (*d*) of section 20 of the Indian Trusts Act, 1882; 2 of 1882.

(*ii*) such of the securities authorised by the Central Government under clause (*f*) of section 20 of the Indian Trusts Act, 1882, as may be prescribed;'; 2 of 1882.

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

'(*da*) "corresponding new bank" means a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;'; 5 of 1970. 40 of 1980.

(*c*) after clause (*ff*), the following clauses shall be inserted, namely:—

'(*ffa*) "Development Bank" means the Industrial Development Bank of India established under section 3 of the Industrial Development Bank of India Act, 1964; 18 of 1964.

(*ffb*) "Exim Bank" means the Export-Import Bank of India established under section 3 of the Export-Import Bank of India Act, 1981;'; 28 of 1981.

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

'(*l*) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934;'; 2 of 1934.

(*e*) clause (*nb*) and clause (*nc*) shall be re-lettered as clause (*nd*) and clause (*ne*), respectively, and before clause (*nd*) as so re-lettered, the following clauses shall be inserted, namely:—

'(*nb*) "Sponsor Bank" has the meaning assigned to it in the Regional Rural Banks Act, 1976; 21 of 1976.

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

Amendment of section 7.

14. In section 7 of the Banking Regulation Act, in sub-section (*1*), after the words "shall use as part of its name", the words "or in connection with its business" shall be inserted.

Amendment of section 8.

15. In section 8 of the Banking Regulation Act, for the proviso, the following proviso shall be substituted, namely:—

"Provided that this section shall not apply to any such business as is specified in pursuance of clause (*o*) of sub-section (*1*) of section 6.".

Amendment of section 10A.

16. In section 10A of the Banking Regulation Act, after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) Notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force,— 1 of 1956

(*i*) no director of a banking company, other than its chairman or whole-time director, by whatever name called, shall hold office continuously for a period exceeding eight years;

(*ii*) a chairman or other whole-time director of a banking company who has been removed from office as such chairman, or whole-time director, as the case may be, under the provisions of this Act shall also cease to be a director of the banking company and shall also not be eligible to be appointed as a director of such banking company, whether by election or co-option or otherwise, for a period of four years from the date of his ceasing to be the chairman or whole-time director, as the case may be.".

Amendment of section 10B.

17. In section 10B of the Banking Regulation Act,—

(*a*) in sub-section (*1*), for the words "shall have a chairman of its Board of directors", the words "shall have one of its directors as chairman of its Board of directors" shall be substituted;

(*b*) in sub-section (*5*), the words "but shall continue in office until his successor assumes office" shall be omitted;

(*c*) after sub-section (*5*), the following sub-section shall be inserted, namely:—

"(*5A*) A chairman of the Board of directors whose term of office has come to an end, either by reason of his resignation or by reason of expiry of the period of his office, shall, subject to the approval of the Reserve Bank, continue in office until his successor assumes office.",

Insertion of new section 10BB.

18. After section 10B of the Banking Regulation Act, the following section shall be inserted, namely:—

Power of Reserve Bank to appoint chairman of a banking company.

"10BB. (*1*) Where the office of the chairman of a banking company is vacant, the Reserve Bank may, if it is of opinion that the continuation of such vacancy is likely to adversely affect the interests of the banking company, appoint a person, eligible under sub-section (*4*) of section 10B to be so appointed, to be the chairman of the banking company and where the person so appointed is not a director of such banking company, he shall, so long as he holds the office of the chairman, be deemed to be a director of the banking company.

(*2*) The chairman so appointed by the Reserve Bank shall be in the whole-time employment of the banking company and shall hold office for such period not exceeding three years, as the Reserve Bank may specify, but shall, subject to other provisions of this Act, be eligible for reappointment.

(*3*) The chairman so appointed by the Reserve Bank shall draw from the banking company such pay and allowances as the Reserve Bank may determine and may be removed from office only by the Reserve Bank.

(*4*) Save as otherwise provided in this section, the provisions of section 10B shall, as far as may be, apply to the chairman appointed by the Reserve Bank under sub-section (*1*) as they apply to a chairman appointed by the banking company.".

Substitution of new section for section 10C.

19. For section 10C of the Banking Regulation Act, the following section shall be substituted, namely:—

Chairman and certain directors not to be required to hold qualification shares

"10C. A chairman of a banking company (by whomsoever appointed) and a director of a banking company (appointed by the Reserve Bank under section 10A) shall not be required to hold qualification shares in the banking company.".

Amendment of section 10D

20. In section 10D of the Banking Regulation Act, after the words, figures and letters "in pursuance of section 10A or section 10B" the words, figures and letters "or section 10BB" shall be inserted.

21. For section 18 of the Banking Regulation Act, the following section shall be substituted, namely:— Substitution of new section for section 18.

'18. (*1*) Every banking company, not being a scheduled bank, shall maintain in India by way of cash reserve with itself or by way of balance in a current account with the Reserve Bank or by way of net balance in current accounts or in one or more of the aforesaid ways, a sum equivalent to at least three per cent. of the total of its demand and time liabilities in India as on the last Friday of the second preceding fortnight and shall submit to the Reserve Bank before the twentieth day of every month a return showing the amount so held on alternate Fridays during a month with particulars of its demand and time liabilities in India on such Fridays or if any such Friday is a public holiday under the Negotiable Instruments Act, 1881, at the close of business on the preceding working day. Cash reserve.

26 of 1881.

Explanation.—In this section, and in section 24,—

(*a*) "liabilities in India" shall not include—

(*i*) the paid-up capital or the reserves or any credit balance in the profit and loss account of the banking company;

(*ii*) any advance taken from the Reserve Bank or from the Development Bank of from the Exim Bank or from the National Bank by the banking company;

(*iii*) in the case of a Regional Rural Bank, also any loan taken by such bank from its Sponsor Bank;

(*b*) "fortnight" shall mean the period from Saturday to the second following Friday, both days inclusive;

(*c*) "net balance in current accounts" shall, in relation to a banking company, mean the excess, if any, of the aggregate of the credit balances in current account maintained by that banking company with the State Bank of India or a subsidiary bank or a corresponding new bank over the aggregate of the credit balances in current account held by the said banks with such banking company;

(*d*) for the purposes of computation of liabilities, the aggregate of the liabilities of a banking company to the State Bank of India, a subsidiary bank, a corresponding new bank, a regional rural bank, another banking company, a co-operative bank or any other financial institution notified by the Central Government in this behalf, shall be reduce by the aggregate of the liabilities of all such banks institutions to the banking company;

(*e*) the expression "co-operative bank" shall have the meaning assigned to it in clause (*cci*) of section 56.

(2) The Reserve Bank may, for the purposes of this section and section 24, specify from time to time, with reference to any transaction or class of transactions, that such transaction or transactions shall be regarded as liability in India of a banking company and, if any question arises as to whether any transaction or class of transactions shall be regarded for the purposes of this section and section 24 as liability in India of a banking company, the decision of the Reserve Bank thereon shall be final.'.

Amendment of section 19.

22. In section 19 of the Banking Regulation Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) A banking company shall not form any subsidiary company except a subsidiary company formed for one or more of the following purposes, namely:—

(*a*) the undertaking of any business which, under clauses (*a*) to (*o*) of sub-section (*1*) of section 6, is permissible for a banking company to undertake, or

(*b*) with the previous permission in writing of the Reserve Bank, the carrying on of the business of banking exclusively outside India, or

(*c*) the undertaking of such other business, which the Reserve Bank may, with the prior approval of the Central Government, consider to be conducive to the spread of banking in India or to be otherwise useful or necessary in the public interest.

Explanation.—For the purposes of section 8, a banking company shall not be deemed, by reason of its forming or having a subsidiary company, to be engaged indirectly in the business carried on by such subsidiary company.".

Amendment of section 20.

23. In section 20 of the Banking Regulation Act, in sub-section (*1*), in clause (*b*), in sub-clause (*iii*), after the words "of which", the words ", or the subsidiary or the holding company of which" shall be inserted.

Insertion of new section 21A.

24. After section 21 of the Banking Regulation Act, the following section shall be inserted, namely:—

Rates of interest charged by banking companies not to be subject to scrutiny by courts.

"21A. Notwithstanding anything contained in the Usurious Loans Act, 1918, or any other law relating to indebtedness in force in any State, a transaction between a banking company and its debtor shall be reopened by any Court on the ground that the rate of interest charged by the banking company in respect of such transaction is excessive." 10 of 1918.

Amendment of section 22.

25. In section 22 of the Banking Regulation Act,—

(*i*) in sub-section (*3*),—

(*a*) in the opening portion, the words "all or any of" shall be omitted;

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

"(c) that the general character of the proposed management of the company will not be prejudicial to the public interest or the interest of its depositors;

(*d*) that the company has adequate capital structure and earning prospects;

(*e*) that the public interest will be served by the grant of a licence to the company to carry on banking business in India;

(*f*) that having regard to the banking facilities available in the proposed principal area of operations of the company, the potential scope for expansion of banks already in existence in the area and other relevant factors the grant of the licence would not be prejudicial to the operation and consolidation of the banking system consistent with monetary stability and economic growth;

(*g*) any other condition, the fulfilment of which would, in the opinion of the Reserve Bank, be necessary to ensure that the carrying on of banking business in India by the company will not be prejudicial to the public interest or the interests of the depositors.";

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

"(*3A*) Before granting any licence under this section to a company incorporated outside India, the Reserve Bank may require to be satisfied by an inspection of the books of the company or otherwise that the conditions specified in sub-section (*3*) are fulfilled and that the carrying on of banking business by such company in India will be in the public interest and that the Government or law of the country in which it is incorporated does not discriminate in any way against banking companies registered in India and that the company complies with all the provisions of this Act applicable to banking companies incorporated outside India.";

(*iii*) in sub-section (*4*), in clause (*iii*), after the word, brackets and figure "sub-section (*3*)", the words, brackets, figure and letter "and sub-section (*3A*)" shall be inserted.

Amendment of section 24.

26. In section 24 of the Banking Regulation Act,—

(*a*) in sub-section (*1*), for the words "time and demand liabilities", the words "demand and time liabilities" shall be substituted;

(*b*) in sub-section (*2A*),—

(*i*) in clause (*a*), for the words and figures "shall maintain in India in cash, gold or unencumbered approved securities, valued at a price not exceeding the current market price, an amount which shall not at the close of business on any day be less than 25 per cent. of the total of its demand and time liabilities in India", the following shall be substituted, namely:—

"shall maintain in India,—

(*A*) in cash, or

(*B*) in gold valued at a price not exceeding the current market price or in unencumbered approved securities valued at a price determined in accordance with such one or more of, or combination of, the following methods of valuation, namely, valuation with reference to cost price, market price, book value or face value, as may be specified by the Reserve Bank from time to time,

an amount which shall not, at the close of business on any day, be less than twenty-five per cent. or such other percentage not exceeding forty per cent. as the Reserve Bank may, from time to time, by notification in the Official Gazette, specify, of the total of its demand and time liabilities in India, as on the last Friday of the second preceding fortnight";

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

"(*b*) in computing the amount for the purpose of clause (*a*),—

(*i*) the deposit required under sub-section (*2*) of section 11 to be made with the Reserve Bank by a banking company incorporated outside India;

(*ii*) any cash or balances maintained in India by a banking company other than a scheduled bank with itself or with the Reserve Bank or by way of net balance in current account in excess of the aggregate of the cash or balance or net balance required to be maintained under section 18;

(*iii*) any balances maintained by a scheduled bank with the Reserve Bank in excess of the balance required to be maintained by it under section 42 of the Reserve Bank of India Act, 1934;

2 of 1934.

(*iv*) the net balance in current accounts maintained in India by a scheduled bank;

(*v*) any balances maintained by a Regional Rural Bank in call or fixed deposit with its Sponsor Bank,

shall be deemed to be cash maintained in India.";

(*iii*) the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the purpose of clause (*a*) of this sub-section, the market price of an approved security shall be the price as on the date of the issue of the notification or as on any earlier or later date as may be notified from time to time by the Reserve Bank in respect of any class or classes of securities.";

21 of 1976.

(*c*) in sub-section (*2B*), the words and figures "established under section 3 of the Regional Rural Banks Act, 1976" shall be omitted;

(*d*) for sub-section (*3*), the following sub-sections shall be substituted, namely:—

'(*3*) For the purpose of ensuring compliance with the provisions of this section, every banking company shall, not later than twenty days after the end of the month to which it relates, furnish to the Reserve Bank in the prescribed form and manner a monthly return showing particulars of its assets maintained in accordance with this section, and its demand and time liabilities in India at the close of business on each alternate Friday during the month, or if any such Friday is a public holiday, at the close of business on the preceding working day:

Provided that every Regional Rural Bank shall also furnish a copy of the said return to the National Bank.

(*4*) (*a*) If on any alternate Friday or, if such Friday is a public holiday, on the preceding working day, the amount maintained by a banking company at the close of business on that day falls below the minimum prescribed by or under clause (*a*) of sub-section (*2A*), such banking company shall be liable to pay to the Reserve Bank in respect of that day's default, penal interest for that day at the rate of three per cent. per annum above the bank rate on the amount by which the amount actually maintained falls short of the prescribed minimum on that day; and

(*b*) if the default occurs again on the next succeeding alternate Friday, or, if such Friday is a public holiday, on the preceding working day, and continues on succeeding alternate Fridays or preceding working days, as the case may be, the rate of penal interest shall be increased to a rate of five per cent. per annum above the bank rate on each such shortfall in respect of that alternate Friday and each succeeding alternate Friday or preceding working day, if such Friday is a public holiday, on which the default continues.

(5) (*a*) Without prejudice to the provisions of sub-section (*3*), the Reserve Bank may require a banking company to furnish to it a return in the form and manner specified by it showing particulars of its assets maintained in accordance with this section and its demand and time liabilities in India, as at the close of business on each day of a month; and

(*b*) without prejudice to the provisions of sub-section (*4*), on the failure of a banking company to maintain as on any day, the amount so required to be maintained by or under clause (*a*) of sub-section (*2A*) the Reserve Bank may, in respect of such default, require the banking company to pay penal interest for that day as provided in clause (*a*) of sub-section (*4*) and if the default continues on the next succeeding working day, the penal interest may be increased as provided in clause (*b*) of sub-section (*4*) for the concerned days.

(6) (*a*) The penalty payable under sub-section (*4*) and sub-section (*5*) shall be paid within a period of fourteen days from the date on which a notice issued by the Reserve Bank demanding payment of the same is served on the banking company and in the event of failure of the banking company to pay the same within such period, the penalty may be levied by a direction of the principal civil court having jurisdiction in the area where an office of the defaulting banking company is situated, such direction to be made only upon an application made by the Reserve Bank in this behalf to the court; and

(*b*) when the court makes a direction under clause (*a*), it shall issue a certificate specifying the sum payable by the banking company and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a suit.

(7) When under the provisions of clause (*b*) of sub-section (*4*) penal interest at the increased rate of five per cent. above the bank rate has become payable by a banking company, if thereafter the amount required to be maintained on the next succeeding alternate Friday, or if such Friday is a public holiday, the next preceding working day, is still below the prescribed minimum, every director, manager or secretary of the banking company, who is knowingly and wilfully a party to the default, shall be punishable with fine which may extend to five hundred rupees and with a further fine which may extend to five hundred rupees for each subsequent alternate Friday or the preceding working day, as the case may be, on which the default continues.

(8) Notwithstanding anything contained in this section, if the Reserve Bank is satisfied, on an application in writing by the defaulting banking company, that the banking company had sufficient cause for its failure to comply with the provisions of clause (a) of sub-section (2A), the Reserve Bank may not demand the payment of the penal interest.

Explanation.—In this section, the expression "public holiday" means a day which is a public holiday under the Negotiable Instruments Act, 1881.'.

26 of 1881.

Amendment of section 29.

27. In section 29 of the Banking Regulation Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) Notwithstanding anything to the contrary contained in sub-section (3) of section 210 of the Companies Act, 1956, the period to which the profit and loss account relates shall, in the case of a banking company, be the period ending with the last working day of the year immediately preceding the year in which the annual general meeting is held.".

1 of 1956.

Amendment of section 34A.

28. In section 34A of the Banking Regulation Act, for sub-section (3), the following sub-section shall be substituted, namely:—

'(3) For the purposes of this section "banking company" includes the Reserve Bank, the Development Bank, the Exim Bank, the National Bank the State Bank of India, a corresponding new bank, a regional rural bank and a subsidiary bank.'.

Amendment of section 35.

29. In section 35 of the Banking Regulation Act,—

(i) after sub-section (1), the following sub-section shall be inserted and shall be deemed to have always been so inserted, namely:—

"(1A) (a) Notwithstanding anything to the contrary contained in any law for the time being in force and without prejudice to the provisions of sub-section (1), the Reserve Bank, at any time, may also cause a scrutiny to be made by any one or more of its officers, of the affairs of any banking company and its books and accounts; and

(b) a copy of the report of the scrutiny shall be furnished to the banking company if the banking company makes a request for the same or if any adverse action is contemplated against the banking company on the basis of the scrutiny.";

(ii) in sub-section (2), after the words, brackets and figure "any officer making an inspection under sub-section (1)", the words, brackets, figure and letter "or a scrutiny under sub-section (1A)" shall be inserted;

(iii) in sub-section (3), after the words, brackets and figure "inspection under sub-section (1)", the words, brackets, figure and letter "or a scrutiny under sub-section (1A)" shall be inserted;

(iv) in sub-section (4), after the words "on any inspection", the words "or scrutiny" shall be inserted.

Amendment of section 35B.

30. In section 35B of the Banking Regulation Act,—

(*i*) in sub-section (*1*), in clause (*a*), after the words "any provision relating to", the words "the maximum permissible number of directors or" shall be inserted;

(*ii*) in sub-section (*2*), for the words and figures "provisions of sections 310", the words and figures "provisions of sections 269, 310" shall be substituted;

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

"(*2A*) Nothing contained in section 198 of the Companies Act, 1956 shall apply to a banking company and the provisions of sub-section (*1*) of section 309 and of section 387 of that Act shall, insofar as they are applicable to a banking company, have effect as if no reference had been made in the said provisions to section 198 of that Act.". 1 of 1956.

Amendment of section 36AB.

31. In section 36AB of the Banking Regulation Act, in sub-section (*1*), the proviso shall be omitted.

Amendment of section 36AD.

32 In section 36AD of the Banking Regulation Act, for sub-section (*3*), the following sub-section shall be substituted, namely:—

'(*3*) For the purposes of this section "banking company" includes the Reserve Bank, the Development Bank, the Exim Bank, the National Bank, the State Bank of India, a corresponding new bank, a regional rural bank and a subsidiary bank.'.

Amendment of section 42.

33. In section 42 of the Banking Regulation Act,—

(*i*) for the words and figures "sections 460, 464 and 465", the word and figures "section 460" shall be substituted; and

(*ii*) the words "or with the appointment of a committee of inspection" shall be omitted.

Amendment of section 45.

34. In section 45 of the Banking Regulation Act,—

(*a*) in sub-section (*5*), in clause (*i*),—

(*i*) in the first proviso, for the words "as are applicable", in the two places where they occur, the words "as are, at the time of such payment or grant, applicable" shall be substituted;

(*ii*) in the second proviso, for the words "the doubt or difference shall be referred", the words "the doubt or difference shall be referred, before the expiry of a period of three years from the date of the payment or grant mentioned in that clause," shall be substituted;

(*b*) in sub-section (*8*), the following shall be inserted at the end, namely:—

"including the trustees or other persons managing, or connected in any other manner with, any provident fund or other fund maintained by any of those companies or the transferee bank";

(c) in sub-section (9), for the words "On and from such date as may be specified by the Central Government in this behalf", the words "On and from the date of the coming into operation of, or as the case may be, the date specified in this behalf in, the scheme" shall be substituted;

(d) in sub-section (15), for the words and figures "any other banking institution notified by the Central Government under section 51", the words "a subsidiary bank or a corresponding new bank" shall be substituted;

(e) the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—References in this section to the terms and conditions of service as applicable to an employee shall not be construed as extending to the rank and status of such employee.".

Amendment of sections 45A and 45J.

35. In sections 45A and 45J of the Banking Regulation Act, for the words and figures "Code of Criminal Procedure, 1898", wherever they occur, the words and figures "Code of Criminal Procedure, 1973" shall be substituted and in sub-section (5) of the said section 45J, the words "and all such trials shall be without the aid of a jury" shall be omitted.

5 of 1898.
2 of 1974.

Amendment of section 45S.

36. In section 45S of the Banking Regulation Act, for the words "Chief Presidency Magistrate or the District Magistrate", wherever they occur, the words "Chief Metropolitan Magistrate or the Chief Judicial Magistrate" shall be substituted.

Insertion of new Part IIIB.

37. After section 45X of the Banking Regulation Act, the following Part shall be inserted, namely:—

'PART IIIB

PROVISIONS RELATING TO CERTAIN OPERATIONS OF BANKING COMPANIES

Power of Central Government to make rules for the preservation of records.

45Y. The Central Government may, after consultation with the Reserve Bank and by notification in the Official Gazette, make rules specifying the periods for which—

(a) a banking company shall preserve its books, accounts and other documents; and

(b) a banking company shall preserve and keep with itself different instruments paid by it.

Return of paid instruments to customers.

45Z. (1) Where a banking company is required by its customer to return to him a paid instrument before the expiry of the period specified by rules made under section 45Y, the banking company shall not return the instrument except after making and keeping in its possession a true copy of all relevant parts of such instrument, such copy being made by a mechanical or other process which in itself ensures the accuracy of the copy.

(2) The banking company shall be entitled to recover from the customer the cost of making such copies of the instrument.

Explanation.—In this section, "customer" includes a Government department and a corporation incorporated by or under any law.

Nomination for payment of depositors' money.

45ZA. (*1*) Where a deposit is held by a banking company to the credit of one or more persons, the depositor or, as the case may be, all the depositors together, may nominate, in the prescribed manner, one person to whom in the event of the death of the sole depositor or the death of all the depositors, the amount of deposit may be returned by the banking company.

(*2*) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such deposit, where a nomination made in the prescribed manner purports to confer on any person the right to receive the amount of deposit from the banking company, the nominee shall, on the death of the sole depositor or, as the case may be, on the death of all the depositors, become entitled to all the rights of the sole depositor or, as the case may be, of the depositors, in relation to such deposit to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

(*3*) Where the nominee is a minor, it shall be lawful for the depositor making the nomination to appoint in the prescribed manner any person to receive the amount of deposit in the event of his death during the minority of the nominee.

(*4*) Payment by a banking company in accordance with the provisions of this section shall constitute a full discharge to the banking company of its liability in respect of the deposit:

Provided that nothing contained in this sub-section shall effect the right or claim which any person may have against the person to whom any payment is made under this section.

Notice of claims of other persons regarding deposits not receivable.

45ZB. No notice of the claim of any person, other than the person or persons in whose name a deposit is held by a banking company, shall be receivable by the banking company, nor shall the banking company be bound by any such notice even though expressly given to it:

Provided tthat nothing containe in this sub-section shall affect authority from a court of competent jurisdiction relating to such deposit is produced before a banking company, the banking company shall take due note of such decree, order, certificate or other authority.

Nomination for return of articles kept in safe custody with banking company.

45ZC. (*1*) Where any person leaves any article in safe custody with a banking company, such person may nominate, in the prescribed manner, one person to whom, in the event of the death of the person leaving the article in safe custody, such article may be returned by the banking company.

(*2*) Where the nominee is a minor, it shall be lawful for the person making the nomination to appoint in the prescribed manner any person to receive the article deposited in the event of his death during the minority of the nominee.

(*3*) The banking company shall, before returning any articles under this section to the nominee or the person appointed under

sub-section (2), prepare, in such manner as may be directed by the Reserve Bank from time to time, an inventory of the said articles which shall be signed by such nominee or person and shall deliver a copy of the inventory so prepared to such nominee or person.

(4) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such article, where a nomination made in the prescribed manner purports to confer on any person the right to receive the article from the banking company, the nominee shall, on the death of the person leaving the article in safe custody, become entitled to the return of the article to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner:

Provided that nothing contained in this section shall affect the right or claim which any person may have against the person to whom the article is returned in pursuance of this sub-section.

Notice of claims of other persons regarding articles not receivable.

45ZD. No notice of the claim of any person, other than the person or persons in whose name any article is held by a banking company in safe custody, shall be receivable by the banking company, nor shall the banking company be bound by any such notice even though expressly given to it:

Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to such article is produced before a banking company, the banking company shall take due note of such decree, order, certificate or other authority.

Release of contents of safety lockers.

45ZE. (1) Where an individual is the sole hirer of a locker from a banking company, whether such locker is located in the safe deposit vault of such banking company or elsewhere, such individual may nominate one person to whom, in the event of the death of such individual, the banking company may give access to the locker and liberty to remove the contents of the locker.

(2) Where any such locker is hired from a banking company by two or more individuals jointly, and, under the contract of hire, the locker is to be operated under the joint signatures of two or more of such hirers, such hirers may nominate one or more persons to whom, in the event of the death of such joint hirer or hirers, the banking company may give, jointly with the surviving joint hirer or joint hirers, as the case may be, access to the locker and liberty to remove the contents of such locker.

(3) Every nomination under sub-section (1) or sub-section (2) shall be made in the prescribed manner.

(4) The banking company shall, before permitting the removal of the contents of any locker by any nominee or jointly by any nominee and survivors as aforesaid, prepare, in such manner as may be directed by the Reserve Bank from time to time, an inventory of the contents of the locker which shall be signed by such nominee or jointly by such nominee and survivors and shall deliver

a copy of the inventory so prepared to such nominee or nominee and survivors.

(5) On the removal of the contents of any locker by any nominee or jointly by any nominee and survivors as aforesaid, the liability of the banking company in relation to the contents of the locker shall stand discharged.

(6) No suit, prosecution or other legal proceeding shall lie against a banking company for any damage caused or likely to be caused, for allowing access to any locker, and liberty to remove the contents of such locker, in pursuance of the provisions of sub-section (1) or sub-section (2), as the case may be.

Notice of claims of other persons regarding safety lockers not receivable.

45ZF. No notice of the claim of any person, other than hirer or hirers of a locker, shall be receivable by a banking company nor shall the banking company be bound by any such notice even though expressly given to it:

Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to the locker or its contents is produced before the banking company, the banking company shall take due note of such decree, order, certificate or other authority.'.

Amendment of section 46.

38. In section 46 of the Banking Regulation Act,—

(*i*) in sub-section (2), for the words "an officer making an inspection under that section", the words "an officer making an inspection or scrutiny under that section" shall be substituted;

(*ii*) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) If any other provision of this Act is contravened or if any default is made in—

(*i*) complying with any requirement of this Act or of any order, rule or direction made or condition imposed thereunder, or

(*ii*) carrying out the terms of, or the obligations under, a scheme sanctioned under sub-section (7) of section 45,

by any person, such person shall be punishable with fine which may extend to two thousand rupees, and where a contravention or default is a continuing one, with a further fine which may extend to one hundred rupees for every day, during which the contravention or default continues.".

Amendment of section 47.

39. In section 47 of the Banking Regulation Act, for the words "no court inferior to that of a Presidency Magistrate or a Magistrate of the first class", the words "no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or any court superior thereto" shall be substituted.

Amendment of section 51.

40. Section 51 of the Banking Regulation Act shall be re-numbered as sub-section (*1*) of that section, and—

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

(*i*) for the figures, words, brackets and letters "19 to 21, 23 to 28, 29 [excluding sub-section (*3*)], 31, 34, 35, 35A, 36 [excluding clause (*d*) of sub-section (*1*)], 46 to 48", the figures, words, letters and brackets "19 to 21A, 23 to 28, 29 [excluding sub-section (*3*)], 31, 34, 35, 35A, 36 [excluding clause (*d*) of sub-section (*1*)], 45Y to 45ZF, 46 to 48" shall be substituted;

(*ii*) for the words, figures and brackets "or any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976 or any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or any other banking institution notified by the Central Government in this behalf", the words "or any corresponding new bank or a Regional Rural Bank or any subsidiary bank" shall be substituted;

5 of 1970
21 o 1976.

40 of 1980.

(*iii*) in the proviso,—

(*A*) in clause (*a*), for the words "general manager", the words "managing director" shall be substituted;

(*B*) for clauses (*b*) and (*c*), the following clauses shall be substituted, namely:—

"(*b*) nothing contained in sub-clause (*iii*) of clause (*b*) of sub-section (*1*) of section 20 shall apply to any bank referred to in sub-section (*1*), insofar as the said sub-clause (*iii*) of clause (*b*) precludes that bank from entering into any commitment for granting any loan or advance to or on behalf of a company (not being a Government company) in which not less than forty per cent. of the paid-up capital is held (whether singly or taken together) by the Central Government or the Reserve Bank or a corporation owned by that bank; and

(*c*) nothing contained in section 46 or in section 47A shall apply to,—

(*i*) an officer of the Central Government or the Reserve Bank, nominated or appointed as director of the State Bank of India or any corresponding new bank or a Regional Rural Bank or any subsidiary bank or a banking company; or

(*ii*) an officer of the State Bank of India or a corresponding new bank or a Regional Rural Bank or a subsidiary bank nominated or appointed as director of any of the said banks (not being the bank of which he is an officer) or of a banking company.";

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

"(*2*) References to a banking company in any rule or direction relating to any provision of this Act referred to in sub-section (*1*) shall, except where such rule or direction provides otherwise, be construed as referring also to the State Bank of India, a corresponding new bank, a Regional Rural Bank and a subsidiary bank.".

Amendment of section 52.

41. In section 52 of the Banking Regulation Act,—

(*a*) sub-section (*3*) shall be omitted;

(*b*) after sub-section (*4*), the following sub-section shall be inserted, namely:—

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

Amendment of section 56.

42. In section 56 of the Banking Regulation Act,—

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

"(*ii*) clauses (*ff*), (*h*) and (*nb*) shall be omitted;";

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

'(*f*) for section 7, the following section shall be substituted, namely:—

Use of words "bank", "banker" or "banking".

"7. (*1*) No co-operative society other than a co-operative bank shall use as part of its name or in connection with its business any of the words "bank", "banker" or "banking", and no co-operative society shall carry on the business of banking in India unless it uses as part of its name at least one of such words.

(*2*) Nothing in this section shall apply to—

(*a*) a primary credit society, or

(*b*) a co-operative society formed for the protection of the mutual interest of co-operative banks or co-operative land mortgage banks, or

(*c*) any co-operative society, not being a primary credit society, formed by the employees of—

(*i*) a banking company or the State Bank of India or a corresponding new bank or a subsidiary bank of such banking company, State Bank of India or a corresponding new bank, or

(*ii*) a co-operative bank or a primary credit society or a co-operative land mortgage bank,

insofar as the word "bank", "banker" or "banking" appears as part of the name of the employer bank, or as the case may be, of the bank, whose subsidiary the employer bank is." ';

(*iii*) after clause (*f*), the following clauses shall be inserted, namely:—

'(*fi*) in section 8, for the proviso, the following proviso shall be substituted, namely:—

"Provided that this section shall not apply—

(*a*) to any such business as aforesaid which was in the course of being transacted on the commencement of clause (*iii*) of section 42 of the Banking Laws (Amendment) Act, 1983, so, however, that the said business shall be completed before the expiry of one year from such commencement; or

(*b*) to any business as is specified in pursuance of clause (*o*) of sub-section (*1*) of section 6;";

(*fii*) in section 9, for the second proviso, the following provisos shall be substituted, namely:—

"Provided further that in the case of a primary credit society which becomes a primary co-operative bank after the commencement of clause (*iii*) of section 42 of the Banking Laws (Amendment) Act, 1983 the period of seven years shall commence from the day it so becomes a primary co-operative bank:

Provided also that the Reserve Bank may in any particular case, extend the aforesaid period of seven years by such period as it may consider necessary where it is satisfied that such extension would be in the interests of the depositors of the co-operative bank" '.

(*iv*) in clause (*a*) for the figures and letters "10B, 10C", the figures and letters "10B, 10BB, 10C" shall be substituted;

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

'(*j*) for section 18, the following section shall be substituted, namely:—

Cash reserve.

"18. (*1*) Every co-operative bank, not being a State co-operative bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (hereinafter referred to as a "scheduled State Co-operative Bank") shall maintain in India by way of cash reserve with itself or by way of balance in a current account with the Reserve

2 of 1934.

Bank or the State co-operative bank of the State concerned or by way of net balance in current accounts, or, in the case of a primary co-operative bank, with the central co-operative bank of the district concerned, or in one or more of the aforesaid ways, a sum equivalent to at least three per cent. of the total of its demand and time liabilities in India, as on the last Friday of the second preceding fortnight and shall submit to the Reserve Bank before the fifteenth day of every month a return showing the amount so held on alternate Fridays during a month with particulars of its demand and time liabilities in India on such Fridays or if any such Friday is a public holiday under the Negotiable Instruments Act, 1881, at the close of business on the preceding working day. 26 of 1881.

Explanation.—In this section and in section 24—

(*a*) "liabilities in India" shall not include—

(*i*) the paid-up capital or the reserves or any credit balance in the profit and loss account of the co-operative bank;

(*ii*) any advance taken from a State Government, the Reserve Bank, the Development Bank, the Exim Bank, the National Bank or from the National Co-operative Development Corporation established under section 3 of the National Co-operative Development Corporation Act, 1962 by the co-operative bank; 26 of 1962.

(*iii*) in the case of a State or central co-operative bank, also any deposit of money with it representing the reserve fund or any part thereof maintained with it by any other co-operative society within its area of operation, and in the case of a central co-operative bank, also an advance taken by it from the State co-operative bank of the State concerned;

(*iv*) in the case of a primary co-operative bank, also any advance taken by it from the State co-operative bank of the State concerned or the central co-operative bank of the district concerned;

(*v*) in the case of any co-operative bank, which has granted an advance against any balance maintained with it, such balance to the extent of the amount outstanding in respect of such advance; and

(*vi*) in the case of any co-operative bank, the amount of any advance or other credit arrangement drawn and availed of against approved securities;

(*b*) "fortnight" shall mean the period from Saturday to the second following Friday, both days inclusive;

(c) "net balance in current accounts" shall, in relation to a co-operative bank, mean the excess, if any, of the aggregate of the credit balances in current account maintained by that co-operative bank with the State Bank of India or a subsidiary bank or a corres-

ponding new bank, over the aggregate of the credit balances in current accounts held by the said banks with such co-operative bank;

(*d*) for the purpose of computation of liabilities, the aggregate of the liabilities of a co-operative bank to the State Bank of India, a subsidiary bank, a corresponding new bank, a Regional Rural Bank, a banking company or any other financial institution notified by the Central Government in this behalf shall be reduced by the aggregate of the liabilities of all such banks and institutions to the co-operative bank;

(*e*) any cash with a co-operative bank or any balance held by a co-operative bank with another bank, shall not, to the extent such cash or such balances represents the balance in, or investment of, Agricultural Credit Stabilisation Fund of such co-operative bank, be deemed to be cash maintained in India.

(2) The Reserve Bank may, for the purposes of this section and section 24, specify from time to time, with reference to any transaction or class of transactions, that such transaction or transactions shall be regarded as liability in India of a co-operative bank, and, if any question arises as to whether any transaction or class of transactions shall be regarded for the purposes of this section and section 24, as liability in India of a co-operative bank, the decision of the Reserve Bank thereon shall be final.";

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

'(*m*) in section 20A, in sub-section (*1*),—

(*i*) the words and figures "Notwithstanding anything to the contrary contained in section 293 of the Companies Act, 1956," shall be omitted;

1 of 1956.

(*ii*) in clause (*a*), for the words "any of its directors" the words "any of its past or present directors" shall be substituted;';

(*vii*) in clause (*o*) relating to the modification of section 22,—

(*A*) in sub-clause (*i*), for sub-section (2) of section 22 aforesaid as substituted by that sub-clause, the following sub-section shall be substituted, namely:—

"(2) Every co-operative society carrying on business as a co-operative bank at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965, shall before the expiry of three months from such commencement, every co-operative bank which comes into existence as a result of the division of any other co-operative society carrying on business as a co-operative bank, or the amalgamation of two or more co-operative societies carrying on banking business shall, before the expiry of three months from its so coming into existence, every primary credit society which becomes a primary co-operative bank after such commencement shall before the expiry of three months

23 of 1965.

from the date on which it so becomes a primary co-operative bank and every co-operative society other than a primary credit society shall before commencing banking business in India, apply in writing to the Reserve Bank for a licence under this section:

Provided that nothing in clause (*b*) of sub-section (*1*) shall be deemed to prohibit—

(*i*) a co-operative society carrying on business as a co-operative bank at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965; 23 of 1965.
or

(*ii*) a co-operative bank which has come into existence as a result of the division of any other co-operative society carrying on business as a co-operative bank, or the amalgamation of two or more co-operative societies carrying on banking business at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965 or at any time thereafter; or 23 of 1965.

(*iii*) a primary credit society which becomes a primary co-operative bank after such commencement,

from carrying on banking business until it is granted a licence in pursuance of this section or is, by a notice in writing, notified by the Reserve Bank that the licence cannot be granted to it.";

(*B*) for sub-clause (*ii*), the following sub-clauses shall be substituted, namely:—

"(*ii*) sub-section (*3A*) shall be omitted;

(*iii*) in sub-section (*4*), in clause (*iii*), the words' brackets, figure and letter "and sub-section (*3A*)" shall be omitted;";

(*viii*) in clause (*p*), for sub-clause (*ii*), the following sub-clause shall be substituted, namely:—

'(*ii*) after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*4A*) Any co-operative bank other than a primary co-operative bank requiring the permission of the Reserve Bank under this section shall forward its application to the Reserve Bank through the National Bank which shall give its comments on the merits of the application and send it to the Reserve Bank:

Provided that the co-operative bank shall also send an advance copy of the application directly to the Reserve Bank."';

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

'(*q*) in section 24,—

(*i*) in sub-section (*1*), the words "After the expiry of two years from the commencement of this Act," shall be omitted;

(*ii*) for sub-sections (*2*) and (*2A*), the following sub-sections shall be substituted, namely:—

"(*2*) In computing the amount for the purposes of sub-section (*1*),—

(*a*) any balances maintained in India by a co-operative bank in current account with the Reserve Bank or by way of net balance in current accounts, and in the case of a scheduled State co-operative bank, also the balance required under section 42 of the Reserve Bank of India Act, 1934, to be so maintained;

2 of 1934.

(*b*) any balances maintained by a central co-operative bank with the State co-operative bank of the State concerned, and

(*c*) any balances maintained by a primary co-operative bank with central co-operative bank of the district concerned or with the State co-operative bank of the State concerned,

shall be deemed to be cash maintained in India.

(*2A*) (*a*) Notwithstanding anything contained in sub-section (*1*) or in sub-section (*2*), after the expiry of two years from the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965, or of such further period not exceeding one year as the Reserve Bank, having regard to the interests of the co-operative bank concerned, may think fit in any particular case to allow,—

23 of 1965.

(*i*) a scheduled State co-operative bank, in addition to the average daily balance which it is, or may be, required to maintain under section 42 of the Reserve Bank of India Act, 1934, and

2 of 1934.

(*ii*) every other co-operative bank, in addition to the cash reserve which it is required to maintain under section 18,

shall maintain in India, in cash, or in gold valued at a price not exceeding the current market price or in unencumbered approved securities valued at a price determined in accordance with such one or more of, or combination of, the following methods of valuation, namely, valuation with reference to cost price, market price, book value or face value, as may be specified by the Reserve Bank from time to time, an amount which shall not, at the close of business on any day, be less than twenty-five per cent. or such other percentage not exceeding forty per cent. as the Reserve Bank may, from time to time, by notification in the Official Gazette, specify, of the total of its demand and time liabilities in India, as on the last Friday of the second preceding fortnight.

(*b*) In computing the amount for the purpose of clause (*a*), the following shall be deemed to be cash maintained in India, namely:—

(*i*) any balance maintained by a scheduled State co-operative bank with the Reserve Bank in excess of the balance required to be maintained by it under section 42 of the Reserve Bank of India Act, 1934; 2 of 1934.

(*ii*) any cash or balances maintained in India by a co-operative bank, other than a scheduled State co-operative bank, with itself or with the State co-operative bank of the State concerned, or in current account with the Reserve Bank or by way of net balance in current accounts and, in the case of a primary co-operative bank, also any balances maintained with the central co-operative bank of the district concerned, in excess of the aggregate of the cash or balances required to be maintained under section 18;

(*iii*) any net balance in current accounts.

Explanation.—For the purposes of this sub-section—

(*a*) approved securities, or a portion thereof, representing investment of monies of Agricultural Credit Stabilisation Fund of a co-operative bank shall not be deemed to be unencumbered approved securities;

(*b*) in case a co-operative bank has taken an advance against any balance maintained with the State co-operative bank of the State concerned or with the central co-operative bank of the district concerned, such balance to the extent to which it has been drawn against or availed of shall not be deemed to be cash maintained in India;

(*c*) for the purpose of clause (*a*), the market price of an approved security shall be the price as on the date of the issue of the notification or as on any earlier or later date, as may be notified from time to time by the Reserve Bank in respect of any class or classes of securities;";

(*iii*) in sub-section (*3*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that every co-operative bank, other than a primary co-operative bank, shall also furnish within the said period, a copy of the said return to the National Bank.";

(*iv*) in sub-section (*6*), in clause (*a*), for the words "fourteen days", the words "thirty days" shall be substituted;";

(*x*) after clause (*q*), the following clause shall be inserted, namely:—

'(*qq*) after section 24, the following section shall be inserted, namely:—

"24A. Without prejudice to the provisions of section 53, the Reserve Bank may, by notification in the Official Gazette, declare that, for such period and subject to such conditions as may be specified in such notification the whole or any part of the provisions of section 18 or section 24, as may be specified therein, shall not apply to any co-operative bank or class of co-operative banks, with reference to all or any of the offices of such co-operative bank or banks, or with reference to the whole or any part of the assets and liabilities of such co-operative bank or banks." '; Power to exempt.

(*xi*) in clause (*w*) relating to the modification of section 35,—

(*a*) in sub-clause (*i*), for item (*b*), the following item shall be substituted, namely:—

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

"Provided that the Reserve Bank may, if it considers it necessary or expedient so to do, cause an inspection to be made of a primary co-operative bank under this sub-section by one or more officers of a State co-operative bank in the State in which such primary co-operative bank is registered." ';

(*b*) sub-clauses (*iii*) and (*iv*) shall be re-numbered as sub-clauses (*iv*) and (*v*) respectively and before sub-clause (*iv*) as so re-numbered, the following sub-clause shall be inserted namely:—

'(*iii*) after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*4A*) Without prejudice to the provisions of sub-section (*4*), the Reserve Bank may, if it considers it necessary or expedient so to do supply a copy of the report on any inspection or scrutiny to the State co-operative bank and the Registrar of co-operative societies of the State in which the bank which has been inspected or whose affairs have been scrutinised is registered." ';

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

'(*z*) in section 36, in sub-section (*1*),—

(*a*) clause (*b*) shall be omitted;

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

"(*d*) at any time if it is satisfied that for the re-organisation or expansion of co-operative credit on sound

lines it is necessary so to do, by an order in writing and on such terms and conditions as may be specified therein,—

(*i*) depute one or more of its officers to watch the proceedings at any meeting of the Board of directors of the co-operative bank or of any other body constituted by it and require the co-operative bank to give an opportunity to the officer so deputed to be heard at such meetings and to offer such advice on such matters as the officer may consider necessary or proper for the reorganisation and expansion of co-operative credit on sound lines, and also require such officer to send a report of such proceedings to the Reserve Bank;

(*ii*) appoint one or more of its officers to observe the manner in which the affairs of the co-operative bank or its offices or branches are being conducted and make a report thereon;" ';

(*xiii*) in clause (*za*) relating to the modification of section 36A, in sub-clause (*ii*), in sub-section (*3*) as inserted by that sub-clause, for the words, brackets, letters and figure "in clause (*ccc*) of section 5", the words, brackets, letters and figure "in clause (*ccv*) of section 5" shall be substituted;

(*xiv*) after clause (*za*), the following clause shall be inserted, namely:—

"(*zaa*) in section 36AD, sub-section (*3*) shall be omitted;";

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

'(*zc*) in section 46,—

(*i*) in sub-section (*4*), the word "or" occurring at the end of clause (*i*) and clause (*ii*) shall be omitted;

(*ii*) in clause (*a*) of the *Explanation*, after the words "includes a", the words "co-operative society" shall be inserted;'.

CHAPTER V

AMENDMENTS TO THE STATE BANK OF INDIA ACT, 1955

Insertion of new section 35A.

43. In Chapter VI, after section 35 of the State Bank of India Act, 1955 (hereafter in this Chapter referred to as the State Bank Act), the following section shall be inserted, namely:— 23 of 1955.

Arrangement with the State Bank on appointment of directors to prevail

"35A. (*1*) Where any arrangement entered into by the State Bank with a company provides for the appointment by the State Bank of one or more directors of such company, such provisions and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the company, and any provision regarding share qualification, age limit, number of directorships, removal from 1 of 1956.

office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the State Bank in pursuance of the arrangement as aforesaid.

(2) Any director appointed as aforesaid shall—

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

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

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

Amendment of section 40.

44. In section 40 of the State Bank Act,—

(i) in sub-section (1), for the words "auditors' report on the working of the State Bank", the words "auditors' report and a report by the Central Board on the working and activities of the State Bank" shall be substituted;

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

"(4) The Central Government shall cause the auditors' report and the report by the Central Board on the working and activities of the State Bank to be laid, as soon as may be after they are received, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions.".

Amendment of section 42.

45. In section 42 of the State Bank Act, in sub-section (2), after the word "working", the words "and activities" shall be inserted.

Amendment of section 43.

46. In section 43 of the State Bank Act, in sub-section (2), for the words "as may be", the words "as may, by general or special order, be" shall be substituted.

Amendment of section 49.

47. In section 49 of the State Bank Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case

may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

Amendment of section 50.

48. In section 50 of the State Bank Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Every regulation shall, as soon as may be after it is made under this Act by the Central Board, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the 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 regulation.".

CHAPTER VI

AMENDMENTS TO THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959

Insertion of new section 36A

49. After section 36 of the State Bank of India, (Subsidiary Banks) Act, 1959 (hereafter in this Chapter referred to as the Subsidiary Banks Act), the following section shall be inserted, namely:— 38 of 1959.

Subsidiary bank to act as agent of the Reserve Bank.

"36A. (1) A subsidiary bank shall, if so required by the Reserve Bank, act as agent of the Reserve Bank at all places in India, where it has a branch, 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 subsidiary bank on behalf of the Reserve Bank shall be such as may be agreed upon.

(3) If, no agreement can be reached on any matter referred to in sub-section (2) or if a dispute arises between a subsidiary bank and the Reserve Bank as to the interpretation of any agreement between them, the matter shall be referred to the Central Government and the decision of the Central Government thereon shall be final.

(4) A subsidiary bank may transact any business or perform any functions entrusted to it under sub-section (1), by itself or through any agent approved by the Reserve Bank.".

50. After section 38 of the Subsidiary Banks Act, the following section shall be inserted, namely:— Insertion of new section 38A.

"38A. (1) Where any arrangement entered into by a subsidiary bank with a company provides for the appointment by the subsidiary bank of one or more directors of such company, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the company, and any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the subsidiary bank in pursuance of the arrangement as aforesaid. Arrangement with subsidiary banks on appointment of directors to prevail.

1 of 1956

(2) Any director appointed as aforesaid shall—

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

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

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

51. In section 43 of the Subsidiary Banks Act,— Amendment of section 43.

(i) in sub-section (1),—

(a) in the opening portion, for the words "and the Reserve Bank", the words ", the Reserve Bank and the Central Government" shall be substituted;

(b) in clause (a), after the words "on the working", the words "and activities" shall be inserted;

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

"(3) The Central Government shall cause the auditor's report and the report by the Board of directors on the working and activitier of the subsidiary bank to be laid, as soon as may be after they are received, before each House of Parliament,

while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions.".

Amendment of section 44.

52. In section 44 of the Subsidiary Banks Act,—

(*a*) in sub-section (*1*), in the proviso, for the words "the State Bank, or to the Reserve Bank", the words "the State Bank, the Reserve Bank or the Central Government" shall be substituted;

(*b*) in sub-section (*2*), after the word "working", the words "and actities' shall be inserted.

Amendment of section 53.

53. In section 53 of the Subsidiary Banks Act, after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) Where the State Bank nominates any of its officers as director of a subsidiary bank, such director shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as director or anything in relation thereto.".

Amendment of section 62.

54. In section 62 of the Subsidiary Banks Act, for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) Every rule made 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

Amendment of section 63.

55. In section 63 of the Subsidiary Banks Act, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) Every regulation shall, as soon as may be after it is made under this Act by the State Bank, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the 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 regulation".

CHAPTER VII

AMENDMENTS TO THE DEPOSIT INSURANCE AND CREDIT GUARANTEE CORPORATION ACT, 1961

Amendment of section 2.

56. In section 2 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (hereafter in this Chapter referred to as the Deposit Insurance Corporation Act),— 47 of 1961.

(*a*) in clause (*b*), for the words and figures ", a subsidiary bank and any other banking institution notified under section 51 of the Banking Regulation Act, 1949", the words "and a subsidiary bank" shall be substituted; 10 of 1949.

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

'(*ee*) "corresponding new bank" means a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or, as the case may be, under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;' 5 of 1970. 40 of 1980.

(*c*) in clause (*i*),—

(*i*) after the words "banking company", at the first place where they occur, the words "or a corresponding new bank" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 1971;

(*ii*) for sub-clause (*i*), the following sub-clauses shall be substituted and shall be deemed to have been substituted with effect from the 19th day of July, 1969, namely:—

"(*i*) a banking company referred to in clause (*a*) or clause (*b*) of sub-section (*1*) of section 13, or

(*ia*) a corresponding new bank to which the provisions of clause (*a*) of sub-section (*1*) of section 13 apply, or";

(*d*) in clause (*k*), the words and figures ", and includes any banking institution notified under section 51 of the said Act after such commencement" shall be omitted.

Amendment of section 4.

57. In section 4 of the Deposit Insurance Corporation Act, in sub-section (*1*), for the words "fifteen crores of rupees", the words "fifty crores of rupees" shall be substituted.

Amendment of section 6.

58. In section 6 of the Deposit Insurance Corporation Act,—

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

"(*2*) (*i*) A director nominated under clause (*b*) or clause (*c*) of sub-section (*1*) shall hold office during the pleasure of the authority nominating him; and

(*ii*) A director nominated under clause (*d*) or clause (*e*) of sub-section (*1*), shall hold office for such period not exceeding four years as may be specified by the Central Government and thereafter until his successor assumes office.";

(*b*) in sub-section (*3*), in the opening portion, after the word, brackets and letter "clause (*d*)", the words, brackets and letter "or clause (*e*)" shall be inserted;

(*c*) after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*5*) If a director nominated under clause (*e*) of sub-section (*1*)—

(*a*) becomes subject to any of the disqualifications mentioned in clauses (*a*) to (*d*) of sub-section (*3*); or

(*b*) is absent without leave of the Board for more than three consecutive meetings thereof,

his seat shall thereupon become vacant.".

Amendment of section 11.

59. In section 11 of the Deposit Insurance Corporation Act, the words and figures ", or, as the case may be, after it is notified under section 51 of the said Act" shall be omitted.

Amendment of section 13.

60. In section 13 of the Deposit Insurance Corporation Act, in sub-sections (*2*) and (*3*), the brackets and letter "(*b*)," shall be omitted.

Amendment of section 13A.

61. In section 13A of the Deposit Insurance Corporation Act, in clause (*b*) of sub-section (*2*), after sub-clause (*ii*), the following sub-clause shall be inserted, namely:—

"(*iii*) every co-operative bank which has come into existence after the commencement of the Deposit Insurance Corporation (Amendment) Act, 1968, as a result of the division of any other co-operative society carrying on business as a co-operative bank, or the amalgamation of two or more co-operative societies carrying on banking business, at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965, or at any time thereafter, within three months of its having made an application for a licence under the said section:". 56 of 1968. 23 of 1965.

Amendment of section 16.

62. In section 16 of the Deposit Insurance Corporation Act, in sub-section (*1*), in the proviso, for the words and figures "of section 13", the words, brackets and figures "of sub-section (*1*) of section 13" shall be substituted and shall be deemed to have been substituted with effect from the 19th day of July, 1969.

Amendment of section 32.

63. In section 32 of the Deposit Insurance Corporation Act, in sub-section (*2*), for the words "for not less than thirty days before each House of Parliament as soon as may be after each such report is received by the Central Government", the words "as soon as may be after they are received before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions" shall be substituted.

IndiaCode

Amendment of section 50.

64. In section 50 of the Deposit Insurance Corporation Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Every regulation shall, as soon as may be after it is made under this Act by the Board, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the 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 regulation."

CHAPTER VIII

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1970

5 of 1970.

Amendment of section 3.

65. In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (hereafter in this Chapter referred to as the Bank Nationalisation Act),—

(*i*) in sub-section (5), for the words "one or more forms of business", the words "one or more of the other forms of business" shall be substituted;

(*ii*) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) (*i*) The corresponding new bank shall, if so required by the Reserve Bank, act as agent of the Reserve Bank at all places in India where it has a branch, 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.

(*ii*) The terms and conditions on which any such agency business shall be carried on by the corresponding new bank on behalf of the Reserve Bank shall be such as may be agreed upon.

(*iii*) If no agreement can be reached on any matter referred to in clause (*ii*), or if a dispute arises between the corresponding new bank and the Reserve Bank as to the interpretation of any agreement between them, the matter shall be referred to the Central Government and the decision of the Central Government thereon shall be final.

(*iv*) The corresponding new bank may transact any business or perform any functions entrusted to it under clause (*i*), by itself or through any agent approved by the Reserve Bank.".

Amendment of section 9.

66. In section 9 of the Bank Nationalisation Act,—

(*i*) sub-section (5) shall be re-numbered as sub-section (6) and before sub-section (6) as so re-numbered, the following sub-section and *Explanation* shall be inserted, namely:—

'(5) On and from the date of coming into operation of a scheme made under this section with respect to any of the matters referred to in clause (c) of sub-section (2) or any matters incidental, consequential and supplemental thereto,—

(*a*) the scheme shall be binding on the corresponding new bank or corporations or banking institutions, and also on the members, if any, the depositors, and other creditors and employees of each of them and on any other persons having any right or liability in relation to any of them including the trustees or other persons, managing or in any other manner connected with, any provident fund or other fund maintained by any of them;

(*b*) the properties and assets of the corresponding new bank, or as the case may be, of the banking institution shall, by virtue of and to the extent provided in the scheme, stand transferred to, and vested in, and the liabilities of the corresponding new bank, or, as the case may be, of the banking institution shall, by virtue of, and to the extent provided in the scheme, stand transferred to, and become the liabilities of, the corporation or corporations brought into existence by reconstitution of the banking institution or the corresponding new bank, as the case may be.

Explanation.—In this section, "banking institution" means a banking company and includes the State Bank of Indita or a subsiiary bank.'.

(*ii*) in sub-section (6) as so re-numbered, for the words "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", the words "which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

Amendment of section 10.

67. In section 10 of the Bank Nationalisation Act,—

(*i*) after sub-section (4), the following *Explanations* shall be inserted, namely:—

"*Explanation I.*—For the purposes of this Act—

(*a*) the balance-sheet shall not be treated as not disclosing a true and fair view of the affairs of the corresponding new bank, and

(*b*) the profit and loss account shall not be treated as not showing a true balance of profit or loss for the period covered by such account,

merely by reason of the fact that the balance-sheet or, as the case may be, the profit and loss account does not disclose any

matters which are by the provisions of the Banking Regulation Act, 1949, read with the relevant provisions of this Act or any other Act, not required to be disclosed. 10 of 1949.

Explanation II.—For the purposes of this Act the accounts of the corresponding new bank shall not be deemed as having not been properly drawn up on the ground merely that they do not disclose certain matters if—

(*i*) those matters are such as the corresponding new bank is, by virtue of any provision contained in the Banking Regulation Act, 1949, read with the relevant provisions of this Act, or any other Act, not required to disclose; and 10 of 1949.

(*ii*) the provisions referred to in clause (*i*) are specified in the balance-sheet and profit and loss account of the corresponding new bank or in the auditor's report.";

(*ii*) after sub-section (7), the following sub-section shall be inserted, namely:—

"(7A) Every corresponding new bank shall furnish to the Central Government the annual balance-sheet, the profit and loss account, and the auditor's report and a report by its Board of directors on the working and activities of the bank during the period covered by the accounts.";

(*iii*) in sub-section (8), for the words "for not less than thirty days before each House of Parliament as soon as may be after each such report is received by the Central Government", the words "as soon as may be after they are received before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions" shall be substituted;

(*iv*) after sub-section (8), the following sub-section shall be inserted, namely:—

"(9) Without prejudice to the foregoing provisions, the Central Government may, at any time, appoint such number of auditors as it thinks fit to examine and report on the accounts of a corresponding new bank and the auditors so appointed shall have all the rights, privileges and authority in relation to the audit of the accounts of the corresponding new bank which an auditor appointed by the corresponding new bank has under this section.".

Insertion of new section 16A.

68. After section 16 of the Bank Nationalisation Act, the following section shall be inserted, namely:—

Arrangement with corresponding new bank on appointment of directors to prevail.

"16A. (1) Where any arrangement entered into by a corresponding new bank with a company provides for the appointment by the corresponding new bank of one or more directors of such company, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the Company, and 1 of 1956.

any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the corresponding new bank in pursuance of the arrangement as aforesaid.

(2) Any director appointed as aforesaid shall—

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

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

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

Amendment of section 19.

69. In section 19 of the Bank Nationalisation Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Every regulation shall, as soon as may be after it is made under this Act by the Board of directors of a corresponding new bank, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the 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 regulation.".

CHAPTER IX

AMENDMENTS TO THE REGIONAL RURAL BANKS ACT, 1976

Amendment of section 30.

70. Section 30 of the Regional Rural Banks Act, 1976 (21 of 1976) shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) Every regulation shall, as soon as may be after it is made under this Act by the Board of directors, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the 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 regulation.".

CHAPTER X

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1980

Amendment of section 3

71. In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 [hereafter in this Chapter referred to as the Bank (Second) Nationalisation Act],— 40 of 1980.

(*i*) in sub-section (5), for the words "one or more forms of business", the words "one or more of the other forms of business" shall be substituted;

(*ii*) after sub-section (6), the following sub-section shall be inserted, namely:—

(7) (*i*) The corresponding new bank shall, if so required by the Reserve Bank, act as agent of the Reserve Bank at all places in India where it has a branch, 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.

(*ii*) The terms and conditions on which any such agency business shall be carried on by the corresponding new bank on behalf of the Reserve Bank shall be such as may be agreed upon

(*iii*) If no agreement can be reached on any matter referred to in clause (*ii*), or if a dispute arises between the corresponding new bank and the Reserve Bank as to the interpretation of any agreement between them, the matter shall be referred to the Central Government and the decision of the Central Government thereon shall be final.

(*iv*) The corresponding new bank may transact any business or perform any functions entrusted to it under clause (*i*), by itself or through any agent approved by the Reserve Bank.".

Amendment of section 9

72. In section 9 of the Bank (Second) Nationalisation Act, sub-section (5) shall be re-numbered as sub-section (6) and before sub-section (6) as so re-numbered, the following sub-section and *Explanation* shall be inserted, namely:—

'(5) On and from the date of coming into operation of a scheme made under this section with respect to any of the matters referred to in clause (*c*) of sub-section (2) or any matters incidental, consequential and supplemental thereto,—

(*a*) the scheme shall be binding on the corresponding new bank or corporations or banking institutions, and also on the members, if any, the depositors, and other creditors and employees of each of them and on any other persons having any right or liability in relation to any of them including the trustees or other persons, managing or in any other manner connected with, any provident fund or other fund maintained by any of them;

(*b*) the properties and assets of the corresponding new bank or, as the case may be, of the banking institution shall, by virtue of and to the extent provided in the scheme, stand transferred to, and vested in, and the liabilities of the corresponding new bank or, as the case may be, of the banking institution shall, by virtue of, and to the extent provided in the scheme, stand transferred to, and become the liabilities of, the corporation or corporations brought into existence by reconstitution of the banking institution or the corresponding new bank, as the case may be.

Explanation.—In this section, "banking institution" means a banking company and includes the State Bank of India or a subsidiary bank.'.

Amendment of section 10.

73. In section 10 of the Bank (Second) Nationalisation Act,—

(*i*) after sub-section (4), the following *Explanations* shall be inserted, namely:—

"*Explanation I.*—For the purposes of this Act,—

(*a*) the balance-sheet shall not be treated as not disclosing a true and fair view of the affairs of the corresponding new bank, and

(*b*) the profit and loss account shall not be treated as not showing a true balance of profit or loss for the period covered by such account,

merely by reason of the fact that the balance-sheet or, as the case may be, the profit and loss account, does not disclose any matters which are by the provisions of the Banking Regulation Act, 1949, read with the relevant provisions of this Act or any other Act, not required to be disclosed. 10 of 1949.

Explanation II.—For the purposes of this Act, the accounts of the corresponding new bank shall not be deemed as having not been properly drawn up on the ground merely that they do not disclose certain matters if—

(*i*) those matters are such as the corresponding new bank is, by virtue of any provision contained in the Banking Regulation Act, 1949, read with the relevant provisions of this Act, or any other Act, not required to disclose; and 10 of 1949.

(*ii*) the provisions referred to in clause (*i*) are specified in the balance-sheet and profit and loss account of the corresponding new bank or in the auditor's report.";

(*ii*) after sub-section (7), the following sub-section shall be inserted, namely:—

"(7*A*) Every corresponding new bank shall furnish to the Central Government the annual balance-sheet, the profit and loss account, and the auditor's report and a report by its Board of directors on the working and activities of the bank during the period covered by the accounts.";

(*iii*) in sub-section (*8*), for the words "for not less than thirty days before each House of Parliament as soon as may be after each such report is received by the Central Government", the words "as soon as may be after they are received before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions" shall be substituted;

(*iv*) after sub-section (*8*), the following sub-section shall be inserted, namely:—

"(*9*) Without prejudice to the foregoing provisions, the Central Government may, at any time, appoint such number of auditors as it thinks fit to examine and report on the accounts of a corresponding new bank and the auditors so appointed shall have all the rights, privileges and authority in relation to the audit of the accounts of the corresponding new bank which an auditor appointed by the corresponding new bank has under this section."

Insertion of new section 16A

74. After section 16 of the Bank (Second) Nationalisation Act, the following section shall be inserted, namely:—

Arrangement with corresponding new bank on appointment of directors to prevail.

"16A. (*1*) Where any arrangement entered into by a corresponding new bank with a company provides for the appointment by the corresponding new bank of one or more directors of such company, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956 or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the company, and any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the corresponding new bank in pursuance of the arrangement as aforesaid.

1 of 1956

(*2*) Any director appointed as aforesaid shall—

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

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

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

Amendment of section 19.

75. In section 19 of the Bank (Second) Nationalisation Act, after sub-section (*3*), the following sub-section shall be inserted namely:—

"(**4**) Every regulation shall, as soon as may be after it is made under this Act by the Board of directors of a corresponding new

bank, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the 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 regulation.".

R. V. S. PERI SASTRI,
Secy. to the Govt. of India.

IndiaCode

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1984