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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

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

New Delhi, the 29th May, 1978/Jyaistha 8, 1900 (Saka)

The following Act of Parliament received the assent of the President on the 27th May, 1978, and is hereby published for general information:—

THE DEPOSIT INSURANCE CORPORATION (AMENDMENT AND MISCELLANEOUS PROVISIONS) ACT, 1978

NO. 21 OF 1978

[*27th May*, 1978]

An Act to provide for the acquisition and transfer of the undertaking of the Credit Guarantee Corporation of India Limited in order to serve better the need for providing credit gurantee to commercial banks, and further to amend the Deposit Insurance Corporation Act, 1961, and the Reserve Bank of India Act, 1934, and for matters connected therewith or incidental thereto.

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

CHAPTER I
PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Deposit Insurance Corporation (Amendment and Miscellaneous Provisions) Act, 1978.

(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 commencement of that provision.

Definitions.

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

(*a*) "Company" means the Credit Guarantee Corporation of India Limited, a Company formed and registered under the Companies Act, 1956, and having its registered office at Bombay;

1 of 1956.

(*b*) "Corporation" means the Deposit Insurance Corporation established under sub-section (*1*) of section 3 of the Deposit Insurance Corporation Act, 1961; 47 of 1961.

(*c*) "re-named Corporation" means the Corporation as re-named in accordance with the provisions of section 4;

(*d*) words and expressions used in this Act and not defined but defined in the Deposit Insurance Corporation Act, 1961, shall have the meanings respectively assigned to them in that Act. 47 of 1961.

CHAPTER II

ACQUISITION AND TRANSFER OF UNDERTAKING OF THE CREDIT GUARANTEE CORPORATION OF INDIA LIMITED

Undertaking of the Company to vest in the Corporation.

3. (*1*) On the commencement of this Act, the undertaking of the Company shall stand transferred to, and shall vest in, the Corporation.

(*2*) The undertaking of the Company shall be deemed to include all assets, business, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments, book debts and all other rights and interests in, or arising out of, such property as were, immediately before the commencement of this Act, in the ownership, possession, power or control of the Company, whether within or outside India, and all books of account, registers, records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the Company in relation to its undertaking.

Merger of the undertaking of the Company with the undertaking of the Corporation.

4. (*1*) On the transfer to, and vesting in, the Corporation of the undertaking of the Company, such undertaking shall be deemed to have merged with the undertaking of the Corporation and, consequent on such merger, the Corporation shall be re-named as the Deposit Insurance and Credit Guarantee Corporation, and thereupon any reference to the Deposit Insurance Corporation or to the Credit Guarantee Corporation of India Limited, in the Deposit Insurance Corporation Act, 1961, or in any other law for the time being in force or in any instrument or other document in force immediately before such transfer and vesting, and to which either the Deposit Insurance Corporation or the Credit Guarantee Corporation of India Limited is a party or which is in favour of either of them, shall be construed as a reference to the Deposit Insurance and Credit Guarantee Corporation. 47 of 1961.

(*2*) The change of name of the Deposit Insurance Corporation, by virtue of the provisions of sub-section (*1*), shall not—

(*a*) affect any right or obligation of that Corporation, subsisting immediately before the commencement of the Deposit Insurance Corporation (Amendment and Miscellaneous Provisions) Act, 1978;

(*b*) render defective any suit or other legal proceeding pending immediately before such commencement, by or against that Corporation in its former name; and

(*c*) affect the institution or commencement of any suit or other legal proceeding which could have been instituted or commenced, before such commencement, by or against the Corporation in its

former name, and every such suit or legal proceeding may be instituted or commenced, after the commencement of this Act, by or against the re-named Corporation.

General effect of merger.

5. (*1*) Unless otherwise expressly provided by this Act, all the assets, obligations and liabilities, respectively, of the Corporation, or the Company, and all contracts, deeds, bonds, agreements, guarantees, indemnities, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the commencement of this Act and to which either the Corporation or the Company is a party or which are in favour of either the Corporation, or the Company shall be of as full force and effect against or in favour of the re-named Corporation, and may be enforced or acted upon as fully and effectually as if in place of the Corporation or the Company, as the case may be, the re-named Corporation had been a party thereto or as if they had been issued in favour of the re-named Corporation.

(*2*) If, immediately before the commencement of this Act, any suit, appeal or other proceeding of whatever nature, in relation to any business of the undertaking of the Corporation or of the Company, instituted or preferred by or against the Corporation or the Company, is pending, the same shall not abate, be discontinued or be in any way prejudicially affected, by reason of the transfer of the undertaking of the Company to the Corporation or the merger of the undertaking of the Company with the undertaking of the Corporation, or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the re-named Corporation.

Payment of amount.

6. (*1*) For the transfer to, and vesting in, the Corporation, under section 3, of the undertaking of the Company, there shall be given by the Corporation to the Company an amount of rupees two crores.

(*2*) The amount specified in sub-section (*1*) shall be given, in cash, within thirty days from the commencement of this Act and such amount shall carry interest at the rate of four per cent. per annum from such commencement till the date on which the amount is paid to the Company:

Provided that if the amount specified in sub-section (*1*) is paid within seven days from the commencement of this Act, no interest shall be payable.

Power of Central Government to authorise a person or body of persons to take over the management of the Company.

7. (*1*) The Central Government may, at any time after the commencement of this Act, authorise a person or body of persons to take over the management of the affairs of the Company; and, when any person or body of persons is so authorised, it shall be the duty of such person or body of persons to bring the operations of the Company to a close, realise the amount payable to the Company under section 6, and distribute such amount amongst the creditors of the Company in due course of administration and, if there is a surplus, amongst the contributories of the Company in accordance with their rights and interests and, after such realisation and distribution, to obtain an order of the Central Government for the dissolution of the Company.

(*2*) For the purposes of sub-section (*1*), the person or body of persons authorised under that sub-section shall have such of the powers and

duties of the Official Liquidator, appointed under the Companies Act, 1956, as are necessary to give effect to the provisions of that sub-section as if the Company were being wound up by the court, and, for this purpose, the provisions of the Companies Act, 1956, shall apply subject to the modification that for the word "Court", wherever it occurs, the words "Central Government" shall be substituted. 1 of 1956.

(3) When any person or body of persons is authorised by the Central Government under sub-section (1), to take over the management of the affairs of the Company,—

(a) the provisions of the Companies Act, 1956, or of any other law for the time being in force or any instrument having effect by virtue of any such Act or other law shall, in so far as they are inconsistent with the provisions of this Act, cease to apply to, or in relation to, the Company; 1 of 1956.

(b) all persons in charge of the management, including any person holding office as manager, director or secretary of the Company, immediately before the authorisation of such person or body of persons, shall be deemed to have vacated their offices as such.

(4) As soon as the affairs of the Company have been wholly wound up, the person or body of persons, authorised under sub-section (1), shall submit his or their duly audited final accounts to the Central Government and shall apply to that Government for orders as to the dissolution of the Company.

(5) The Central Government shall, after hearing such person as it may think fit, and upon perusing the accounts as audited, if satisfied that the affairs of the Company have been wholly wound up, make an order that the Company be dissolved from the date of the order and the Company shall stand dissolved accordingly.

(6) The Central Government may also make an order relating to—

(a) the application, subject to the provisions of the Companies Act, 1956, of the balance in the hands of the person or body of persons authorised under sub-section (1); or 1 of 1956.

(b) the payment of such balance into the general revenue account of the Central Government; and

(c) the disposal of the books and papers of the Company.

(7) A copy of the order made by the Central Government for the dissolution of the Company shall be filed by the re-named Corporation with the Registrar of Companies within thirty days from the date of such order and the Registrar of Companies shall give effect to the said order as if it were an order made by the court for the dissolution of the Company.

(8) The provisions of this section shall have effect 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.

CHAPTER III

AMENDMENTS TO THE DEPOSIT INSURANCE CORPORATION ACT, 1961

Amendment of the Deposit Insurance Corporation Act, 1961.

47 of 1961.

8. On the commencement of this Act, the Deposit Insurance Corporation Act, 1961, shall have effect subject to the following amendments, namely:—

(1) in the long title, after the words "insurance of deposits", the words "and guaranteeing of credit facilities" shall be inserted;

(2) in section 1, in sub-section (1), for the words "the Deposit Insurance Corporation", the words "the Deposit Insurance and Credit Guarantee Corporation" shall be substituted;

(3) in section 2,—

(i) in clause (e), for the words "the Deposit Insurance Corporation", the words "the Deposit Insurance and Credit Guarantee Corporation" shall be substituted;

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

'(eea) "credit institution" means all or any of the following, namely:—

(i) a banking company;

(ii) a corresponding new bank;

(iii) a Regional Rural Bank;

(iv) a co-operative bank;

(v) a financial institution;';

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

'(hha) "financial institution" means any financial institution within the meaning of clause (c) of section 45I of the Reserve Bank of India Act, 1934;';

2 of 1934.

(4) in section 3, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Any reference in this Act to the Deposit Insurance Corporation shall, on and from the date on which Chapter II of the Deposit Insurance Corporation (Amendment and Miscellaneous Provisions) Act, 1978, comes into force, be construed as a reference to the Deposit Insurance and Credit Guarantee Corporation.";

(5) in section 4,—

(i) in sub-section (1), for the words "five crores", the words "fifteen crores" shall be substituted;

(ii) in sub-section (2), for the words "authorised capital", the words "issued capital" shall be substituted;

(6) in section 6, in sub-section (1),—

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

"(*a*) the Governor, for the time being, of the Reserve Bank or, if the Reserve Bank, in pursuance of the decision of the Committee of the Central Board of Directors of that Bank, nominates any Deputy Governor for the purpose, the Deputy Governor so nominated, who shall be the Chairman of the Board;";

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

"(*e*) four directors, nominated by the Central Government in consultation with the Reserve Bank, having special knowledge or practical experience in respect of accountancy, agriculture and rural economy, banking, co-operation, economics, finance, law or small-scale industry or any other matter, the special knowledge of, and practical experience in which, is likely, in the opinion of the Central Government, to be useful to the Corporation.";

(7) in section 15,—

(*i*) in sub-section (*1*), for the words "with the previous approval of the Central Government, be notified by the Corporation in the Official Gazette from time to time:", the words "with the previous approval of the Reserve Bank, be notified by the Corporation, from time to time, to the insured banks and different rates may be notified for different categories of insured banks:" shall be substituted;

(*ii*) in sub-section (*3*), for the words "not exceeding eight per cent. per annum as may be prescribed", the words "not exceeding eight per cent. over and above the bank rate as may be prescribed" shall be substituted;

(8) after section 15, the following new section shall be inserted, namely:—

Cancellation of registration of an insured bank for non-payment of premium.

"15A. (*1*) The Corporation may cancel the registration of an insured bank if it fails to pay the premium for three consecutive periods:

Provided that no such registration shall be cancelled except after giving to the concerned bank one month's notice in writing calling upon that bank to pay the amount in default.

(2) The Corporation may restore the registration of a bank whose registration has been cancelled under sub-section (*1*), if the concerned bank requests the Corporation to restore the registration and pays all the amounts due by way of premia from the date of default till the date of payment together with interest due thereon on the date of payment:

Provided that the Corporation shall not restore the registration unless it is satisfied, on an inspection of the concerned bank or otherwise, that it is eligible to be registered as an insured bank.";

(9) after Chapter III, the following Chapter shall be inserted, namely:—

'CHAPTER III-A

CREDIT GUARANTEE FUNCTIONS

Guaranteeing of credit facilities and indemnifying credit institutions.

21A. (1) The Corporation may guarantee credit facilities given by any credit institution and may also indemnify credit institutions in respect of credit facilities granted by them.

(2) The Board may, for the purpose of guaranteeing credit facilities granted by credit institutions or indemnifying credit institutions, frame one or more schemes in such form and in such manner and containing such provisions as the Board may, from time to time, deem fit.

(3) The Board may levy, on every credit institution availing itself of the guarantees or indemnities provided by the Corporation, a fee at such rate or rates as may, with the previous approval of the Reserve Bank, be notified by the Corporation to the credit institutions from time to time and different rates may be notified for different categories of credit institutions, for different types of credit facilities, for different areas where the credit facilities are utilised, or for different categories of beneficiaries of the credit facilities.

Explanation.—"Credit facility" means any financial assistance, including a loan or advance, cash credit, overdraft, bills purchased or discounted, a term of instalment credit and any guarantee other than a performance guarantee, granted or issued in India by a credit institution at any of its offices in India.

Corporation to act as agent of Central Government.

21B. The Corporation may act as agent for the Central Government,—

(*i*) in guaranteeing the due performance by any small-scale industrial concern or other institution or undertaking or categories of institutions or undertakings approved by the Central Government in this behalf, of its, or their, obligations to any credit institution in respect of loans and advances made or other credit facilities provided to it, or them, by such credit institution, and

(*ii*) in making, as such agent, of payments in connection with such guarantee.';

(10) for section 22, the following section shall be substituted, namely:—

Funds of Corporation.

"22. The Corporation shall maintain three funds, to be called, respectively, the Deposit Insurance Fund, the Credit Guarantee Fund and the General Fund.";

(11) in section 23,—

(*i*) in sub-section (1), in clause (*d*), after the words "General Fund", the words "or the Credit Guarantee Fund" shall be inserted;

(*ii*) in sub-section (*2*),—

(*a*) in clause (*b*), the word "and", occurring at the end, shall be omitted;

(*b*) in clause (*c*), the word "; and" shall be added at the end;

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

"(*d*) to meet the whole or any part of the liability on account of the depreciation in assets, contributions to staff superannuation and other funds or other expenses incurred or to be incurred by the Corporation, as may be decided by the Board.";

(*12*) after section 23, the following new section shall be inserted, namely:—

Credit Guarantee Fund.

"23A. (*1*) To the Credit Guarantee Fund shall be credited,—

(*a*) all amounts in the Reserve for unexpired Clearance Risks maintained by the Credit Guarantee Corporation of India Limited, a company formed and registered under the Companies Act, 1956, and having its registered office at Bombay; 1 of 1956.

(*b*) all amounts received by the Corporation as fees for guarantees and indemnities taken over or given by it;

(*c*) all amounts received by the Corporation in respect of guarantees and indemnities taken over or given by it;

(*d*) all amounts transferred to that Fund from the Deposit Insurance Fund or the General Fund under section 27; and

(*e*) all income arising from the investments made out of that Fund.

(*2*) The said Fund shall be applied—

(*a*) to make payments in respect of guarantees and indemnities taken over or issued by the Corporation;

(*b*) to meet any liability in respect of the amount referred to in clause (*d*) of sub-section (*1*); and

(*c*) to meet the whole or any part of the liability on account of depreciation in assets, contributions to staff and superannuation and other funds, or other expenses incurred or to be incurred by the Corporation, as may be decided by the Board.";

(*13*) in section 24,—

(*i*) after the words and figures "of section 23", the words, brackets, figures and letter "or in sub-section (*1*) of section 23A" shall be inserted; and

(*ii*) for the words "of that section", the words, figures, brackets and letter "of section 23, or, as the case may be, sub-section (*2*) of section 23A" shall be substituted;

(14) in section 25, after the words "Deposit Insurance Fund", the words "or the Credit Guarantee Fund" shall be inserted;

(15) after section 25, the following new section shall be inserted, namely:—

Amount in one Fund may be transferred to the other Fund or may be utilised for other purposes.

"25A. Notwithstanding anything contained in this Act, the Board may—

(a) transfer any amount from the Deposit Insurance Fund to the Credit Guarantee Fund or from the Credit Guarantee Fund to the Deposit Insurance Fund, or

(b) utilise any money standing to the credit of either of the said Funds, for such purposes as it may think fit, if it is satisfied that the balance in the Fund, after such transfer or utilization, will be adequate to meet any probable claim on that Fund.";

(16) in section 26, in sub-section (1), after the words "Deposit Insurance Fund", the words "or the Credit Guarantee Fund" shall be inserted;

(17) for section 27, the following section shall be substituted, namely:—

Advances from General Fund to the Deposit Insurance Fund or Credit Guarantee Fund.

"27. If, at any time, the amount available in the Deposit Insurance Fund or the Credit Guarantee Fund is insufficient to meet the requirements of that Fund, the Corporation may transfer, on such terms and for such period as may be determined by the Board with the approval of the Reserve Bank, from any of the other two Funds, referred to in section 22, such amount as may be necessary to meet the requirements of the Deposit Insurance Fund or the Credit Guarantee Fund, as the case may be.";

(18) section 30 shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

43 of 1961.

"(2) Notwithstanding anything contained in the Income-tax Act, 1961, the Corporation shall not be liable to pay any tax under that Act on any of its income, profits or gains for the period commencing from the first day of January, 1977, and ending with the commencement of the accounting year during which Chapter II of the Deposit Insurance Corporation (Amendment and Miscellaneous Provisions) Act, 1978, comes into force and for four accounting years following that year.";

(19) in section 34, in sub-section (1),—

(i) after the words "an insured bank", the words "or a credit institution" shall be inserted; and

(ii) after the words "deposits in that bank", the words "or the credit facilities granted by that credit institution, as the case may be," shall be inserted;

(20) in section 35,—

(i) in sub-section (1), after the words "insured bank", the words "or a credit institution" shall be inserted; and

(*ii*) in sub-section (*2*),—

(*a*) after the words "insured bank", the words "or credit institution" shall be inserted; and

(*b*) after the words "the bank", the words "or the credit institution" shall be inserted;

(*21*) in section 36,—

(*i*) in sub-section (*1*), after the words "insured bank", the words "or a credit institution" shall be inserted;

(*ii*) in sub-section (*3*), for the words "neither the bank inspected or investigated nor any other bank", the words "neither the bank nor the credit institution, as the case may be, inspected or investigated, nor any other bank or credit institution" shall be substituted;

(*22*) in section 38, after the words "insured bank", the words "or a credit institution" shall be inserted;

(*23*) section 39 shall be re-numbered as sub-section (*1*) of that section, and after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) The Corporation shall observe, except as otherwise required by law, the practices and usages customary among the bankers, and, in particular, it shall not divulge any information relating to an insured bank or its customers or a credit institution or its customers except in circumstances in which it is, in accordance with law or practices or usages customary among bankers, necessary or appropriate for the Corporation to divulge such information.";

(*24*) for section 49, the following section shall be substituted, namely:—

Cognizance and trial of offences.

"49. (*1*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court shall take cognizance of any offence punishable under this Act except upon a complaint, in writing, made by an officer of the Corporation, generally or specially authorised in writing in this behalf by the Board, and no court, inferior to the Court of a Metropolitan Magistrate or a Judicial Magistrate of the first class, shall try any such offence. 2 of 1974.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Magistrate may, if he sees reason so to do, dispense with the personal attendance of the officer of the Corporation filing the complaint, but the Magistrate may, in his discretion, at any stage of the proceedings, direct the personal attendance of the complainant."; 2 of 1974.

(*25*) in the First Schedule, for the words "Deposit Insurance Corporation", wherever they occur, the words "Deposit Insurance and Credit Guarantee Corporation" shall be substituted.

CHAPTER IV

AMENDMENT TO THE RESERVE BANK OF INDIA ACT, 1934

9. In the Reserve Bank of India Act, 1934, in section 17, in clause (*11A*), sub-clause (*a*) shall be omitted. Amendment of Act 2 of 1934.

S. HARIHARA IYER,
Secy. to the Govt. of India.

IndiaCode

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