

Substitution of new section for section 3.

5. For section 3 of the principal Act, the following section shall be substituted, namely:—

“3. Where immediately before this Act becomes applicable to an establishment there is in existence a provident fund which is common to the employees employed in that establishment and employees in any other establishment, the Central Government may, by notification in the Official Gazette, direct that the provisions of this Act shall also apply to such other establishment.”

Power to apply Act to an establishment which has a common provident fund with another establishment.

6. In section 19A of the principal Act, for clause (i), the following clauses shall be substituted, namely:—

Amendment of section 19A.

“(i) whether an establishment which is a factory, is engaged in any industry specified in Schedule I;

(ia) whether any particular establishment is an establishment falling within the class of establishments to which this Act applies by virtue of a notification under clause (b) of subsection (3) of section 1.”

THE BANKING COMPANIES (AMENDMENT) ACT, 1956

ACT No. 95 OF 1956

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

[28th December, 1956]

See Indian Code Vol. I.

Be it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Banking Companies (Amendment) Act, 1956.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

10 of 1949.

2. For section 10 of the Banking Companies Act, 1949 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

Substitution of new section for section 10.

“10. (1) No Banking company—

(a) shall employ or be managed by a managing agent;

or

(b) shall employ or continue the employment of any person—

Prohibition of employment of managing agents and restrictions on certain forms of employment.

(i) who is, or at any time has been, adjudicated insolvent, or has suspended payment or has compounded

¹14th January, 1957, vide Notification No. S.R.O. 231 dated 11-1-57. see Gazette of India, pt. II, Sec. 3, p. 178.

with his creditors, or who is, or has been, convicted by a criminal court of an offence involving moral turpitude; or

(ii) whose remuneration or part of whose remuneration takes the form of commission or of a share in the profits of the company:

Provided that nothing contained in this clause shall apply to the payment of any bonus by any banking company in pursuance of a settlement or award arrived at or made under any law relating to industrial disputes or in accordance with any scheme framed by such banking company or in accordance with the usual practice prevailing in banking business; or

(iii) whose remuneration is, in the opinion of the Reserve Bank, excessive; or

(c) shall be managed by any person—

(i) who is a director of any other company not being a subsidiary company of the banking company; or

(ii) who is engaged in any other business or vocation; or

(iii) who has a contract with the company for its management for a period exceeding five years at any one time:

Provided that any contract with the company for its management may be renewed or extended for a further period not exceeding five years at a time if and so often as the directors so decide:

Provided further that nothing in this clause shall apply to a director, other than the managing director, of a banking company by reason only of his being such director.

Explanation.—For the purpose of sub-clause (iii) of clause (b), the expression “remuneration”, in relation to a person employed or continued in employment, shall include salary, fees and perquisites but shall not include any allowances or other amounts paid to him for the purpose of reimbursing him in respect of the expenses actually incurred by him in the performance of his duties.

(2) In forming its opinion under sub-clause (iii) of clause (b) of sub-section (1), the Reserve Bank may have regard among other matters to the following:—

(i) the financial condition and history of the banking company, its size and area of operation, its resources, the

volume of its business, and the trend of its earning capacity;

(ii) the number of its branches or offices;

(iii) the qualifications, age and experience of the person concerned;

(iv) the remuneration paid to other persons employed by the banking company or to any person occupying a similar position in any other banking company similarly situated; and

(v) the interests of its depositors.

(3) If any question arises in any particular case whether the remuneration is excessive within the meaning of sub-clause (iii) of clause (b) of sub-section (1), the decision of the Reserve Bank thereon shall be final for all purposes."

3. For section 12 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 12.

"12. (1) No banking company shall carry on business in India, unless it satisfies the following conditions, namely:—

Regulation of paid-up capital, subscribed capital and authorised capital and voting rights of shareholders.

(i) that the subscribed capital of the company is not less than one-half of the authorised capital, and the paid-up capital is not less than one-half of the subscribed capital and that, if the capital is increased, it complies with the conditions prescribed in this clause within such period not exceeding two years as the Reserve Bank may allow;

(ii) that the capital of the company consists of ordinary shares only or of ordinary shares or equity shares and such preferential shares as may have been issued prior to the 1st day of July, 1944:

Provided that nothing contained in this sub-section shall apply to any banking company incorporated before the 15th day of January, 1937.

(2) No person holding shares in a banking company shall, in respect of any shares held by him, exercise voting rights in excess of five per cent. of the total voting rights of all the shareholders of the banking company.

(3) Notwithstanding anything contained in any law for the time being in force or in any contract or instrument no suit or other proceeding shall be maintained against any person registered as the holder of a share in a banking company on the ground that the title to the said share vests in a person other than the registered holder:

Provided that nothing contained in this sub-section shall bar a suit or other proceeding—

(a) by a transferee of the share on the ground that he has obtained from the registered holder a transfer of the share in accordance with any law relating to such transfer; or

(b) on behalf of a minor or a lunatic on the ground that the registered holder holds the share on behalf of the minor or lunatic.

(4) Every chairman, managing director or chief executive officer by whatever name called of a banking company shall furnish to the Reserve Bank through that banking company returns containing full particulars of the extent and value of his holding of shares, whether directly or indirectly, in the banking company and of any change in the extent of such holding or any variation in the rights attaching thereto and such other information relating to those shares as the Reserve Bank may, by order, require and in such form and at such time as may be specified in the order.”.

Insertion of new section 12A.

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

Election of new directors.

“12A. (1) The Reserve Bank may, by order, require any banking company to call a general meeting of the shareholders of the company within such time, not less than two months from the date of the order, as may be specified in the order or within such further time as the Reserve Bank may allow in this behalf, to elect in accordance with the voting rights permissible under this Act fresh directors, and the banking company shall be bound to comply with the order.

(2) Every director elected under sub-section (1) shall hold office until the date up to which his predecessor would have held office, if the election had not been held.

(3) Any election duly held under this section shall not be called in question in any court.”.

Substitution of new section for section 16.

Prohibition of common directors.

5. For section 16 of the principal Act, the following section shall be substituted, namely:—

“16. (1) No banking company incorporated in India shall have as a director any person who is a director—

(i) of any other banking company; or

(ii) of companies which among themselves are entitled to exercise voting rights in excess of twenty per cent. of the

total voting rights of all the shareholders of the banking company.

(2) If immediately before the commencement of the Banking Companies (Amendment) Act, 1956, any person holding office as a director of a banking company is also a director of companies which among themselves are entitled to exercise voting rights in excess of twenty per cent. of the total voting rights of all the shareholders of the banking company he shall, within such period from such commencement as the Reserve Bank may specify in this behalf—

(a) either resign his office as a director of the banking company; or

(b) choose such number of companies as among themselves are not entitled to exercise voting rights in excess of twenty per cent. of the total voting rights of all the shareholders of the banking company as companies in which he wishes to continue to hold the office of a director and resign his office as a director in the other companies.”

6. In section 27 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:— Amendment of section 27.

“(2) The Reserve Bank may at any time direct a banking company to furnish it within such time as may be specified by the Reserve Bank, with such statements and information relating to the business or affairs of the banking company (including any business or affairs with which such banking company is concerned) as the Reserve Bank may consider necessary or expedient to obtain for the purposes of this Act, and without prejudice to the generality of the foregoing power may call for information every half-year regarding the classification of advances and investments of banking companies in respect of industry, commerce and agriculture.”

7. After section 35 of the principal Act, the following sections shall be inserted, namely:— Insertion of new sections 35A and 35B.

“35A. (1) Where the Reserve Bank is satisfied that—

(a) in the national interest; or

(b) to prevent the affairs of any banking company being conducted in a manner detrimental to the interests of the depositors or in a manner prejudicial to the interests of the banking company; or

(c) to secure the proper management of any banking company generally;

Power of the Reserve Bank to give directions.

It is necessary to issue directions to banking companies generally or to any banking company in particular, it may, from time to time, issue such directions as it deems fit, and the banking companies or the banking company, as the case may be, shall be bound to comply with such directions.

(2) The Reserve Bank may, on representation made to it or on its own motion, modify or cancel any direction issued under sub-section (1), and in so modifying or cancelling any direction may impose such conditions as it thinks fit, subject to which the modification or cancellation shall have effect.

35B. (1) In the case of a banking company—

(a) no amendment of any provision relating to the appointment or re-appointment or remuneration of a managing or whole-time director or of a director not liable to retire by rotation or of a manager or a chief executive officer by whatever name called, whether that provision be contained in the company's memorandum or articles of association, or in an agreement entered into by it, or in any resolution passed by the company in general meeting or by its Board of directors shall have effect unless approved by the Reserve Bank;

(b) no appointment or re-appointment of a managing or whole-time director, manager or chief executive officer by whatever name called, shall have effect unless such appointment or re-appointment is made with the previous approval of the Reserve Bank.

(2) Nothing contained in sections 268, 269, 310, 311 and 388 (in so far as section 388 makes the provisions of sections 310 and 311 apply in relation to the manager of a company) of the Companies Act, 1956, shall apply to a banking company after the commencement of the Banking Companies (Amendment) Act, 1956.

(3) No act done by a person as a managing or whole-time director or a director not liable to retire by rotation or a manager or a chief executive officer by whatever name called, shall be deemed to be invalid on the ground that it is subsequently discovered that his appointment had not taken effect by reason of any of the provisions of this Act; but nothing in this sub-section shall be construed as rendering valid any act done by such person after his appointment has been shown to the banking company not to have had effect."

Amendments of provisions relating to appointments of managing directors, etc. to be subject to previous approval of the Reserve Bank.

8. In section 36 of the principal Act, in sub-section (1), for clause (d), the following clause shall be substituted, namely:—

Amendment
of section 36.

“(d) during the course, or after the completion, of any inspection of a banking company under section 35, by order in writing and on such terms and conditions as may be specified therein—

(i) require the banking company to call a meeting of its directors for the purpose of considering any matter relating to or arising out of the affairs of the banking company, or require an officer of the banking company to discuss any such matter with an officer of the Reserve Bank;

(ii) depute one or more of its officers to watch the proceedings at any meeting of the Board of directors of the banking company or of any committee or of any other body constituted by it; require the banking company to give an opportunity to the officers so deputed to be heard at such meetings and also require such officers to send a report of such proceedings to the Reserve Bank;

(iii) require the Board of directors of the banking company or any committee or any other body constituted by it to give in writing to any officer specified by the Reserve Bank in this behalf at his usual address all notices of, and other communications relating to, any meeting of the Board, committee or other body constituted by it;

(iv) appoint one or more of its officers to observe the manner in which the affairs of the banking company or of its offices or branches are being conducted and make a report thereon;

(v) require the banking company to make, within such time as may be specified in the order, such changes in the management as the Reserve Bank may consider necessary in consequence of the state of affairs disclosed during or by the inspection.”

9. In section 46 of the principal Act,—

Amendment
of section 46.

(i) in sub-section (1), for the word “required”, the words “or in any information required or furnished” shall be substituted; and

(ii) in sub-section (4), after the words “any order”, the words “or direction” shall be inserted.

Insertion of new section 46A.

10. After section 46 of the principal Act, the following section shall be inserted, namely:—

Chairman, director, etc., to be public servants for the purposes of Chapter IX of the Indian Penal Code.

“46A. Every chairman, director, auditor, liquidator, manager and any other employee of a banking company shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code.”.

45 of 186c.

Amendment of section 49.

11. In section 49 of the principal Act, for the words and figures “sections 17, 77, 83B, 86H, 91B, 91D and sub-section (5) of section 144 of the Indian Companies Act, 1913 (VII of 1913)”, the following shall be substituted, namely:—

“sections 90, 165 and 255, clauses (a) and (b) of sub-section (1) of section 293 and sections 300 and 416 of the Companies Act, 1956”.

1 of 1956.

Amendment of section 50.

12. In section 50 of the principal Act, for the words, brackets, figures and letter “contained in sections 10 and 16 or by reason of the compliance by a banking company with any order given to it under sub-clause (ii) of clause (d) of sub-section (1) of section 36” the following shall be substituted, namely:—

“contained in sections 10, 12A, 16, 35A, 35B and 36 or by reason of the compliance by a banking company with any order or direction given to it under this Act”.

Amendment of section 51.

13. In section 51 of the principal Act, for the word and figures “34 to 36”, the following shall be substituted, namely:—

“34, 35 36 [excluding clause (d) of sub-section (1)].”.

Other miscellaneous amendments.

14. The principal Act shall be further amended in the manner specified in the Schedule:

Provided that the amendments specified in the Schedule relating to section 2 and to the sections contained in Part III and Part IIIA of the principal Act shall not apply to a banking company the winding up of which commenced before the 1st day of April, 1956, and the provisions of the principal Act shall apply to such banking company as if the amendments aforesaid had not been made.

THE SCHEDULE

(See section 14)

OTHER MISCELLANEOUS AMENDMENTS IN THE BANKING COMPANIES ACT, 1949

1. In sections 2 and 5, for “Indian Companies Act, 1913 (VII of 1913)” and “Indian Companies Act, 1913”, substitute “Companies Act, 1956”.

1 of 1956.

- 1 of 1956. 2. In section 7, for "section 26 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 25 of the Companies Act, 1956".
- 1 of 1956. 3. In section 11, for "section 103 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 149 of the Companies Act, 1956".
- 1 of 1956. 4. In section 13, for "sections 105 and 105A of the Indian Companies Act, 1913 (VII of 1913)", substitute "sections 76 and 79 of the Companies Act, 1956".
- 1 of 1956. 5. In section 17, for the existing *Explanation*, substitute the following *Explanation*, namely:—
- 1 of 1956. "Explanation.—The provisions of section 349 of the Companies Act, 1956, shall apply for the purpose of computing net profits under this section as they apply for the purpose of computing net profits under section 348 of the said Act".
- 1 of 1956. 6. In section 20, for "section 54A of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 77 of the Companies Act, 1956".
- 1 of 1956. 7. In section 29, for "marked F in the Third Schedule to the Indian Companies Act, 1913 (VII of 1913)", substitute "set out in Part I of Schedule VI to the Companies Act, 1956".
- 1 of 1956. 8. In section 30, for "section 145 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 227 of the Companies Act, 1956".
- 1 of 1956. 9. In section 32, for "section 134 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 220 of the Companies Act, 1956".
- 1 of 1956. 10. In section 35, for "section 138 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 235 of the Companies Act, 1956".
- 1 of 1956. 11. In section 38—
- 1 of 1956. (i) in sub-section (1), for "section 162 or section 271 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 433 or section 583 of the Companies Act, 1956"; and
- 1 of 1956. (ii) in sub-section (3), for "section 163", substitute "section 434 of the Companies Act, 1956".
- 1 of 1956. 12. In section 38A omit sub-section (2) and sub-section (3).
- 1 of 1956. 13. In section 39, for "section 175 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 448 of the Companies Act, 1956".

14. In section 40, for "section 173 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 466 of the Companies Act, 1956". 1 of 1956.
15. In section 41, for "section 177B of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 455 of the Companies Act, 1956". 1 of 1956.
16. In section 42, for "sections 178A and 183 of the Indian Companies Act, 1913 (VII of 1913)", substitute "sections 460, 464 and 465 of the Companies Act, 1956". 1 of 1956.
17. In section 43, for "section 191 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 474 of the Companies Act, 1956". 1 of 1956.
18. In section 43A, for "section 230 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 530 of the Companies Act, 1956". 1 of 1956.
19. In section 44—
- (i) for "section 203 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 484 of the Companies Act, 1956"; 1 of 1956.
and
- (ii) for "sections 218 and 220", substitute "sections 521 and 441".
20. In section 45, for "section 153 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 455 of the Companies Act, 1956". 1 of 1956.
21. In section 45A, for "Indian Companies Act, 1913 (VII of 1913)", substitute "Companies Act, 1956". 1 of 1956.
22. In section 45B, for "section 153 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 391 of the Companies Act, 1956". 1 of 1956.
23. In section 45E—
- (i) for "section 184 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 467 of the Companies Act, 1956", 1 of 1956.
and
- (ii) for "section 187 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 470 of the Companies Act, 1956". 1 of 1956.
24. In section 45H, in sub-sections (1) and (2), for "section 235 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 543 of the Companies Act, 1956". 1 of 1956.

- 25. In section 45J, for "Indian Companies Act, 1913 (VII of 1913)", substitute "Companies Act, 1956".
- 26. In section 45K—
 - (i) in sub-section (1) and in sub-section (3), for "section 153 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 391 of the Companies Act, 1956"; and
 - (ii) in sub-section (2)—
 - (a) for "section 153 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 391 of the Companies Act, 1956"; and
 - (b) for "section 162 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 433 of the Companies Act, 1956".
- 27. In section 45L—
 - (i) in sub-section (1), for "section 153 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 391 of the Companies Act, 1956"; and
 - (ii) in sub-section (2)—
 - (a) for "section 153 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 391 of the Companies Act, 1956"; and
 - (b) for "section 235 of the said Act", substitute "section 543 of the said Act".
- 28. In section 45M, for "section 153 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 391 of the Companies Act, 1956".
- 29. In section 45O, in sub-section (2), for "section 235 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 543 of the Companies Act, 1956".

THE SLUM AREAS (IMPROVEMENT AND
CLEARANCE) ACT, 1956

ARRANGEMENT OF SECTIONS

See India Code

Vol. VI B

SECTIONS

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.