

THE STATE FINANCIAL CORPORATIONS (AMENDMENT) ACT, 1962

No. 6 OF 1962

[30th March, 1962]

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

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the State Financial Corporations (Amendment) Act, 1962. Short title and commencement.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

63 of 1951. 2. In section 2 of the State Financial Corporations Act, 1951 (hereinafter referred to as the principal Act),— Amendment of section 2.

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

‘(c) “industrial concern” means any concern engaged or to be engaged in the manufacture, preservation or processing of goods or in mining or in the hotel industry or in the transport of passengers or goods by road or by water or in the generation or distribution of electricity or any other form of power or in the development of any contiguous area of land as an industrial estate.

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

(ii) for clause (ff), the following clauses shall be substituted, namely:—

‘(ff) “State co-operative bank” shall have the meaning assigned to it in clause (f) of section 2 of the Reserve Bank of India Act, 1934;

2 of 1934.

¹ 16th April, 1962, vide Notification No. S.O. 1081, dated 7-4-1962, Gazette of India, Extraordinary, Part II, Sec. 3(ii), p. 803.

(fff) "State Government", in relation to a Union territory, means the Administrator thereof;

Amendment
of section
3A.

3. In section 3A of the principal Act, in clause (b) of sub-section (2), after the word and figure "section 7", the words and figure "or section 8" shall be inserted.

Amendment
of section
4.

4. In section 4 of the principal Act, in clause (c) of sub-section (3), after the words "insurance companies", the following shall be inserted, namely:—

"(including the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956)".

31 of 1956.

Substitution
of new sec-
tions for sec-
tions 7 and
8.

5. For sections 7 and 8 of the principal Act, the following sections shall be substituted, namely:—

Additional
capital of
the Finan-
cial Corpora-
tion and its
borrowing
powers.

"7. (1) The Financial Corporation may, in consultation with the Reserve Bank, issue and sell bonds and debentures carrying interest for the purpose of increasing its working capital and such bonds and debentures shall be guaranteed by the State Government as to the repayment of the principal and the payment of interest at such rate as the State Government may, on the recommendation of the Board and with the approval of the Central Government, fix at the time the bonds and debentures are issued.

(2) The Financial Corporation may, for the purposes of carrying out its functions under this Act, borrow money from the Reserve Bank—

(a) repayable on demand or on the expiry of a fixed period not exceeding ninety days from the date on which the money is so borrowed against the security of—

(i) stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India, or

(ii) such bills of exchange and promissory notes as are eligible for purchase or rediscount by the Reserve Bank or as are fully guaranteed as to the repayment of the principal and payment of interest by a State Government;

(b) repayable on the expiry of a fixed period not exceeding eighteen months from the date on which the money is so borrowed, against securities of the Central Government or of any State Government of any maturity, or against bonds and debentures issued by the Financial Corporation and guaranteed by the State Government and maturing within a period not exceeding eighteen months from the date on which the money is so borrowed:

Provided that the amount borrowed by the Financial Corporation under clause (b) shall not at any time exceed in the aggregate sixty per cent. of the paid-up share capital thereof.

(3) The Financial Corporation may, for the purposes of carrying out its functions under this Act, borrow money from the State Government in consultation with the Reserve Bank on such terms and conditions as may be agreed upon.

(4) The Financial Corporation may, with the prior approval of the Reserve Bank, also borrow money from any financial institution notified in this behalf by the Central Government on such terms and conditions as may be agreed upon.

(5) The total amount of bonds and debentures issued and outstanding, the amounts borrowed by the Financial Corporation under clause (b) of sub-section (2), sub-section (3) and sub-section (4) and of the contingent liabilities of the Financial Corporation in the form of guarantees given by it or underwriting agreements entered into by it shall not at any time exceed ten times the amount of the paid-up share capital and the reserve fund of the Financial Corporation.

8. (1) The Financial Corporation may accept from the State Government or, with the prior approval of the State Government and the Reserve Bank, a local authority or any other person deposits repayable after the expiry of a period which shall not be less than twelve months from the date of the making of the deposit and on such other terms as it thinks fit:

Deposits
with the
Financial
Corporation

Provided that the total amount of such deposits shall not at any time exceed the paid-up share capital of the Financial Corporation.

(2) All deposits accepted under sub-section (1), other than the deposits from the State Government, shall be guaranteed by the State Government as to the repayment of the principal and the payment of interest."

Amendment
of section
10.

6. In section 10 of the principal Act, —

(i) in clause (b), the words "the Central Board of" shall be omitted;

(ii) in clause (c), the words "the Board of directors of" shall be omitted;

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

"(f) a managing director appointed by the State Government in consultation with the Reserve Bank and, except in the case of first appointment, also with the Board;"

Substitution
of new sec-
tion for
section 16.

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

Remunera-
tion of
directors.

"16. The directors other than the managing director and not being servants of the Government shall be paid such fees as may be prescribed for attending meetings of the Board and, if they are members of the Executive Committee, or any other committee appointed by the Financial Corporation, for attending meetings of such committee."

Amendment
of section
17.

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

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

"(c) hold office for such term not exceeding four years as the State Government may specify and be eligible for reappointment;"

(ii) in the proviso, the words "shall hold office for such term and" shall be omitted.

9. In section 19 of the principal Act,—

Amendment
of Section
19.

15 of 1948.

(i) in sub-section (3A), for the words, "the Central Board of the Reserve Bank or the Board of directors of the Industrial Finance Corporation of India", the words and figures "the Reserve Bank or the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948" shall be substituted;

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

15 of 1948.

"(4) If for any reason a director nominated under clause (a) or clause (b) or clause (c) of section 10 who is a member of the Executive Committee or any other committee is unable to attend any meeting of the Executive Committee or other committee, the State Government, the Reserve Bank or the Industrial Finance Corporation established under the Industrial Finance Corporation Act, 1948, as the case may be, may depute any other person to attend the said meeting and such person shall, for the purposes of the said meeting, be deemed to be a member of such committee.

(5) If for any reason the Chairman of the Board or the Chairman of the Executive Committee is unable to attend any meeting of the Board or, as the case may be, of the Executive Committee,—

(a) in the case of the meeting of the Board, a director, not being the managing director, authorised by the Chairman of the Board in writing shall preside at such meeting, but if the director so authorised is absent or if no such authorisation has been made, the Board may elect a director to preside at that meeting; and

(b) in the case of the meeting of the Executive Committee, a member authorised in writing by the Chairman of that Committee shall preside at that meeting, but if the member so authorised is absent or if no such authorisation has been made, the Committee may elect any of its members to preside at that meeting."

Substitution
of new sec-
tion for sec-
tion 25.

Business
which
Financial
Corporation
may tran-
sact.

10. For section 25 of the principal Act, the following section shall be substituted, namely:—

“25. (1) The Financial Corporation may, subject to the provisions of this Act, carry on and transact any of the following kinds of business, namely:—

(a) guaranteeing, on such terms and conditions as may be agreed upon,—

(i) loans raised by industrial concerns which are repayable within a period not exceeding twenty years, and are floated in the public market;

(ii) loans raised by industrial concerns from scheduled banks or State co-operative banks;

(b) guaranteeing, on such terms and conditions as may be agreed upon, deferred payments due from any industrial concern in connection with its purchase of capital goods within India;

(c) underwriting of the issue of stock, shares, bonds or debentures by industrial concerns;

(d) acting as agent of the Central Government or the State Government or the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948, or any other financial institution notified in this behalf by the Central Government in the transaction of any business with an industrial concern in respect of loans or advances granted, or debentures subscribed, by any one of them;

15 of 1948.

(e) receiving in consideration of the services mentioned in the preceding clauses such commission as may be agreed upon;

(f) retaining as part of its assets any stock, shares, bonds or debentures of an industrial concern which it may have to take in fulfilment of its underwriting liabilities, so however, that it disposes of the stock, shares, bonds or debentures so acquired as early as practicable, but in no case the stock, shares, bonds or debentures so acquired shall be retained beyond a period of seven years from the date of such acquisition, except with the prior permission of the Reserve Bank:

Provided that the Financial Corporation may subscribe to stock or shares of the industrial concern if such concern increases its subscribed capital by the issue of further stock

1 of 1956.

or shares in accordance with, and subject to, the provisions of section 81 of the Companies Act, 1956, but the stock or shares so subscribed shall not be retained after the stock or shares of the industrial concern take in fulfilment of its underwriting liabilities are disposed of;

(g) granting loans or advances to, or subscribing to debentures of, an industrial concern, repayable within a period not exceeding twenty years from the date on which they are granted or subscribed to, as the case may be:

Provided that nothing contained in this clause shall be deemed to preclude the Financial Corporation from granting loans or advances to, or subscribing to debentures of, an industrial concern to which may be attached an option to convert such debentures or loans into stock or shares of the industrial concern:

Provided further that the Financial Corporation may, in the exercise of such option, convert such debentures or loans into stock or shares of the industrial concern and may also subscribe to stock or shares of the industrial concern if such concern increases its subscribed capital by the issue of further stock or shares in accordance with, and subject to, the provisions of section 81 of the Companies Act, 1956;

1 of 1956.

(h) generally, the doing of such acts and things as may be incidental to, or consequential upon, the exercise of its powers or the discharge of its duties under this Act.

(2) No accommodation shall be given under clauses (a), (b) and (g) of sub-section (1) unless it is sufficiently secured by a pledge, mortgage, hypothecation, or assignment of Government or other securities, stock, shares, or secured debentures, bullion, movable or immovable property or other tangible assets in the manner prescribed by regulations or unless it is guaranteed as to the repayment of the principal and the payment of interest by the State Government, a scheduled bank or a State co-operative bank.

(3) Subject to the provisions of sub-section (5) of section 7, the aggregate of contingent liabilities of the Financial Corporation under clauses (a), (b) and (c) of sub-section (1) shall not at any time exceed twice the paid-up share capital and reserve fund of the Corporation except with the prior approval of the State Government and in consultation with the Reserve Bank but in no case shall exceed thrice the paid-up share capital and reserve fund of the Corporation."

Substitution
of new
section for
section 26.

Limit of
accommoda-
tion.

11. For section 26 of the principal Act, the following section shall be substituted, namely:—

“26. The Financial Corporation shall not enter into any arrangements under clauses (a) and (g) of sub-section (1) of section 25 with any industrial concern so that the total amount outstanding against that concern in respect of all such arrangements is more than—

(i) twenty lakhs of rupees in the case of a public limited company as defined in section 3 of the Companies Act, 1956¹ or a co-operative society registered under the Co-operative Societies Act, 1912² or any other law relating to co-operative societies for the time being in force; and

(ii) ten lakhs of rupees in any other case.”

Amendment
of section
27.

12. In section 27 of the principal Act, in sub-section (2), the following shall be added at the end, namely:—

“and nothing in the said Act or in any such law or instrument shall, in so far as it makes in relation to a director, any provision for the holding of any share qualification, age limit, restriction on the number of directorships, retirement by rotation or removal from office, apply to any director appointed by the Financial Corporation in pursuance of this section.”

Amendment
of section
28.

13. In section 28 of the principal Act, for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) except as provided in section 8, accept deposits;

(b) except as provided in clauses (f) and (g) of sub-section (1) of section 25, subscribe to the shares or stock of any company;”

Amendment
of section
29.

14. In section 29 of the principal Act,—

(i) in sub-section (4), for the words “charges and expenses properly incurred”, the words “charges and expenses which in the opinion of the Financial Corporation have been properly incurred” shall be substituted;

(ii) in sub-section (5), for the words “the owner of the concern”, the words “the concern” shall be substituted.

Amendment
of section
32.

15. In section 32 of the principal Act, for sub-section (11), the following sub-section shall be substituted, namely:—

“(11) The functions of a district judge under this section shall be exercisable—

(a) in a presidency town, where there is a city civil court having jurisdiction, by a judge of that court and in the absence of such court, by the High Court; and

(b) elsewhere, also by an additional district judge.”

16. In section 32A of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:— Amendment of section 32A.

1 of 1956.

“(3) Nothing in the Companies Act, 1956 or in any other law for the time being in force or in any instrument relating to the industrial concern shall, in so far as it makes in relation to a director, any provision for the holding of any share qualification, age limit, restriction on the number of directorships, retirement by rotation or removal from office, apply to any director appointed by the Financial Corporation under this section.”

17. In section 33 of the principal Act, in sub-section (2), for the words “or with any agency of the Reserve Bank other than a Government treasury”, the words, brackets and figures “or the State Bank of India or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959” shall be substituted. Amendment of section 33.

38 of 1959.

18. In section 35 of the principal Act, in the proviso to sub-section (2), for the words, brackets and figures “under any guarantee given in pursuance of sub-section (2) of section 7”, the words and figures “section 7 or section 8” shall be substituted. Amendment of section 35.

19. After section 35 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 35A.

“35A. (1) The Financial Corporation may establish a special reserve fund, to which shall be transferred such portion of the dividends accruing to the State Government and the Reserve Bank on the shares of the Financial Corporation as may be fixed by agreement between the State Government and the Reserve Bank: Special reserve fund.

Provided that the total amount in the said fund shall at no time exceed ten per cent. of the paid-up share capital of the Financial Corporation.

(2) No shareholder of the Financial Corporation, other than the State Government and the Reserve Bank, shall have any claim to the special reserve fund.

(3) The amount standing to the credit of the special reserve fund may be utilised by the Financial Corporation for only such purposes as are approved by the State Government and the Reserve Bank.”

20. In section 37 of the principal Act, in the proviso to sub-section (6), for the words, brackets and figures “sub-section (2) of Amendment of section 37.

section 7", the words and figures "section 7 or section 8" shall be substituted.

Insertion of new section 41A.

Protection of action taken by persons appointed under section 27 or section 32A.

21. After section 41 of the principal Act, the following section shall be inserted, namely:—

"41A. No suit, prosecution or other legal proceeding shall lie against any person appointed as director, administrator, managing agent or manager by the Financial Corporation in pursuance of section 27 or section 32A for anything which is in good faith done or intended to be done by him as such director, administrator, managing agent or manager."

Amendment of section 43.

22. In section 43 of the principal Act,—

(i) in the first proviso,—

(a) for the words, brackets and figures "under any guarantee given in pursuance of sub-section (2) of section 7", the words and figures "section 7 or section 8" shall be substituted;

(b) for the words "or bonds", the words "bonds or deposits" shall be substituted;

(ii) in the second proviso, for the words "declared to be income-tax free", the words "and the income-tax shall be payable thereon as if it were the interest receivable on any security of a State Government issued income-tax free" shall be substituted.

Insertion of new section 43A.

Delegation of powers.

23. After section 43 of the principal Act, the following section shall be inserted, namely:—

"43A. The Board may, by general or special order, delegate to the managing director or to any other officer of the Financial Corporation subject to such conditions and limitations, if any, as may be specified in the order such of its powers and duties under this Act as it may deem necessary."