

THE STATE FINANCIAL CORPORATIONS (AMENDMENT)
ACT, 1985

No. 43 OF 1985

[21st August, 1985.]

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

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

Short
title.

1. This Act may be called the State Financial Corporations (Amendment) Act, 1985.

Amend-
ment of
section 2.

2. In section 2 of the State Financial Corporations Act, 1951 (herein- 63 of 1951.
after referred to as the principal Act), in clause (c),—

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

“(ii) mining or development of mines;”;

(b) in sub-clause (iv), after the words “or by air”, the words “or by ropeway or by lift” shall be inserted;

(c) for sub-clause (viii), the following sub-clause shall be substituted, namely:—

“(viii) the setting up or development of an industrial area or industrial estate;”;

(d) in sub-clause (ix), the word “or” occurring at the end shall be omitted;

(e) after sub-clause (x), the following sub-clauses shall be inserted, namely:—

“(xi) providing weigh bridge facilities;

(xii) the research and development of any process or product in relation to any of the matters aforesaid; or

(xiii) such other activity as may be approved by the Development Bank.”;

(f) the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

“*Explanation 2.*—If any doubt arises as to whether a concern is an industrial concern or not, the same shall be referred

to the Development Bank for its decision and the decision of the Development Bank thereon shall be final.”

3. In section 3A of the principal Act, in sub-section (2), clause (e) shall be omitted.

Amend-
ment of
section
3A.

4. In section 4 of the principal Act,—

Amend-
ment of
section
4.

(a) in sub-section (1), for the words “but it shall in no case be less than fifty lakhs of rupees or exceed ten crores of rupees.”, the following shall be substituted, namely:—

“but it shall not be less than fifty lakhs of rupees or exceed fifty crores of rupees:

Provided that the Central Government may, on the recommendation of the Development Bank, by notification in the Official Gazette, increase the authorised capital up to one hundred crores of rupees.”;

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

“(2) The authorised capital shall be divided into such number of fully paid-up shares of the same face value and shall be issued to the parties mentioned in sub-section (3) at such times and in such manner as the State Government may, by notification in the Official Gazette, determine:

Provided that no such notification shall be necessary when the shares are to be issued to the parties mentioned in clauses (a) and (ba) of sub-section (3).”;

(c) in sub-section (3), in clause (c), for the words “or other financial institutions”, the words “, other financial institutions or such other institutions as the Central Government may notify in this behalf in the Official Gazette” shall be substituted;

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) If any shares allocated to any of the parties referred to in clauses (c) and (d) of sub-section (3) remain unsubscribed, they shall be subscribed for equally by the State Government and the Development Bank.”

5. In section 5 of the principal Act,—

Amend-
ment of
section 5.

(a) in sub-section (1), after the words “or any other financial institution or class of financial institutions recognised in this behalf by the State Government”, the words, brackets, letter and figures “or other institutions notified under clause (c) of sub-section (3) of section 4” shall be inserted;

(b) sub-section (2) shall be omitted.

Amend.
ment of
section 6.

6. In section 6 of the principal Act, in sub-section (2),—

(a) for the words "the shares of the Corporation shall", the words "the shares of the Financial Corporation, and such of the bonds and debentures issued by it as are guaranteed by the State Government as to the repayment of the principal and payment of interest, and receipts issued by it for such of the deposits as are guaranteed by the State Government as to the repayment of the principal and payment of interest, shall" shall be substituted;

(b) for the words and figures "Banking Companies Act, 1949", the words and figures "Banking Regulation Act, 1949" shall be substituted.

Amend.
ment of
section 7.

7. In section 7 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "shall be guaranteed by the State Government", the words "shall, if so required by the Financial Corporation, be guaranteed by the State Government" shall be substituted;

(ii) the words "at the time the bonds and debentures are issued" shall be omitted;

(b) in sub-section (2), in the proviso, for the words "ninety per cent. of", the word "twice" shall be substituted;

(c) in sub-section (5), the words "at any time" shall be omitted and the following proviso shall be added at the end, namely:—

"Provided that the Financial Corporation may, with the prior approval of the Development Bank, exceed the aforesaid limit up to thirty times the amount of the paid-up share capital and reserve fund of the Financial Corporation."

Amend.
ment of
section 8.

8. In section 8 of the principal Act,—

(a) in sub-section (1), for the proviso, the following provisos shall be substituted, namely:—

"Provided that the total amount of such deposits shall not exceed twice the paid-up share capital of the Financial Corporation:

Provided further that the Central Government may permit the Financial Corporation to accept deposits up to a higher limit not exceeding ten times the paid-up share capital of the Financial Corporation."

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

"(2) Any deposit accepted under sub-section (1), other than a deposit from the State Government shall, if so required by the Financial Corporation, be guaranteed by the State Government as to the repayment of the principal and the payment of interest."

9. In section 10 of the principal Act, in clause (d), for the words "financial institutions", the words "financial institutions and other institutions" shall be substituted.

Amend-
ment of
section 10.

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

Insertion
of new
section
10A.

"10A. The office of a director elected under clause (d) of section 10 shall become vacant if he ceases to hold any office in the scheduled bank, insurance company, investment trust, co-operative bank, financial or other institution in which he held any office at the time of his election as such director."

Vacation
of office
by an
elected
director.

11. In section 15 of the principal Act, in sub-section (1),—

Amend-
ment of
section
15.

(a) the words ", not being the managing director," shall be omitted;

(b) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that the same person may be appointed to function both as Chairman and as managing director."

12. In section 19 of the principal Act, in sub-section (5), in clause (a), the words ", not being the managing director," shall be omitted.

Amend-
ment of
section
19.

13. In section 20 of the principal Act, in sub-section (2), for the words "shall be laid", the words "shall, after confirmation thereof at the next meeting of the Executive Committee, be laid" shall be substituted.

Amend-
ment of
section
20.

14. In section 21 of the principal Act, for the words "one or more advisory committee or committees", the words "one or more committee or committees consisting wholly of directors or wholly of other persons or partly of directors and partly of other persons" shall be substituted.

Amend-
ment of
section
21.

15. In section 25 of the principal Act,—

Amend-
ment of
section
25.

(a) in sub-section (1),—

(i) in sub-clause (ii) of clause (a), after the words "State co-operative banks", the words "or other financial institutions" shall be inserted;

(ii) in clause (d), after the words "or arising out of, the grant of loans or advances to an industrial concern, or subscription to debentures of an industrial concern", the words "or relating to the business of the Development Bank, Industrial Finance Corporation of India or financial institution" shall be inserted;

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

"(da) subscribing to, or purchasing of, the stock, shares, bonds or debentures of an industrial concern or any other concern with the prior approval of the Development Bank;"

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

“(f) retaining as part of its assets any stock, shares, bonds or debentures which it may acquire by subscription or in fulfilment of its underwriting liabilities and disposing of the stock, shares, bonds or debentures so acquired;”;

(v) in clause (g),—

(a) in the first proviso, for the words “Provided that”, the following shall be substituted, namely:—

“Provided that the Financial Corporation may, with the prior approval of the Development Bank, exceed the said limit of twenty years up to a further period of ten years:

Provided further that”;

(b) in the second proviso,—

(i) for the words “Provided further that”, the words “Provided also that” shall be substituted;

(ii) for the words “convert such debentures or loans”, the words “convert the amounts outstanding on such debentures or loans” shall be substituted;

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

Explanation.—In this clause, the expression “the amounts outstanding on such debentures or loans” shall mean the principal, interest and other charges payable on such debentures or loans as at the time when the amounts are sought to be converted into stock or shares;”;

(vi) after clause (g), the following clauses shall be inserted, namely:—

“(ga) accepting or discounting promissory notes and bills of exchange made, drawn, accepted or endorsed by industrial concerns or by any person selling capital goods manufactured by one industrial concern to another industrial concern;

(gb) undertaking research and surveys for evaluating or dealing with marketing or investments and undertaking and carrying on techno-economic studies or other activities in connection with the development of any industry;

(gc) providing technical and administrative assistance to any industrial concern or any person for the promotion, management or expansion of any industry;

(gd) planning and assisting in the promotion and development of industries;

(ge) doing such other business as the Development Bank may authorise;";

(b) sub-section (2) shall be omitted.

16. After section 25 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
25A.

"25A. The Financial Corporation shall have the right to acquire, by transfer or assignment, the rights and interests of any such financial institution as may be notified by the Central Government (including any other rights incidental thereto) in relation to any loan or advance granted or any amount recoverable by such institution, either in whole or in part, by the execution or issue of any instrument or by the transfer of any instrument by endorsement or in any other manner:

Power to
acquire
rights.

Provided that such loan or advance or amount relates to any business which the Financial Corporation may transact under this Act."

17. In section 26 of the principal Act,—

Amend-
ment of
section
26.

(a) in sub-section (1),—

(i) for the words, brackets and figures "State Financial Corporations (Amendment) Act, 1972", the words, brackets and figures "State Financial Corporations (Amendment) Act, 1985" shall be substituted;

(ii) in clause (i), for the words "thirty lakhs of rupees in the case of", the words "sixty lakhs of rupees in the case of a corporation established by or under any other law or" shall be substituted;

(iii) in clause (ii), for the words "fifteen lakhs", the words "thirty lakhs" shall be substituted;

(iv) the following proviso shall be inserted at the end, namely:—

"Provided that the Financial Corporation may, with the prior approval of the Development Bank, exceed the limit under clause (i) or clause (ii) up to four times.";

(b) sub-section (2) shall be omitted.

18. In section 28 of the principal Act, in sub-section (1), in clause (d), for the words "one crore of rupees", the words "three crores of rupees or such higher amount not exceeding thirty crores of rupees as the Central Government may, by notification in the Official Gazette, specify" shall be substituted.

Amend-
ment of
section
28.

19. In section 31 of the principal Act, in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

Amend-
ment of
section
31.

"(aa) for enforcing the liability of any surety; or".

Amend-
ment of
section
32.

20. In section 32 of the principal Act,—

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

“(1A) When the application is for the relief mentioned in clause (aa) of sub-section (1) of section 31, the district judge shall issue a notice calling upon the surety to show cause on a date to be specified in the notice why his liability should not be enforced.”;

(b) in sub-section (3), after the words, brackets and figure “or sub-section (2),”, the words, brackets, figure and letter “or issuing a notice under sub-section (1A),” shall be inserted;

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

“(4) At the same time as he passes an order under sub-section (1), the district judge shall issue to the industrial concern or to the owner of the security attached a notice accompanied by copies of the order, the application and the evidence, if any, recorded by him calling upon it or him to show cause on a date to be specified in the notice why the *ad interim* order of attachment should not be made absolute or the injunction confirmed.

(4A) If no cause is shown on or before the date specified in the notice under sub-section (1A), the district judge shall forthwith order the enforcement of the liability of the surety.”;

(d) in sub-section (7),—

(i) in clause (d), the word “or” occurring at the end shall be omitted;

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

“(da) direct the enforcement of the liability of the surety or reject the claim made in this behalf; or”;

(iii) in the first proviso, after the words, brackets and letter “under clause (c)”, the words, brackets and letters “or making an order rejecting the claim to enforce the liability of the surety under clause (da) or making an order rejecting the claim to transfer the management of the industrial concern to the Financial Corporation under clause (e)” shall be inserted;

(iv) in the second proviso, after the words “from attachment”, the words “or rejecting the claim to enforce the liability of the surety or rejecting the claim to transfer the industrial concern to the Financial Corporation” shall be inserted;

(e) in sub-section (9), for the words, brackets and figure “under sub-section (5)”, the words, brackets, figures and letter “under sub-section (4A), sub-section (5)” shall be substituted.

21. After section 32F of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 32G.

“32G. Where any amount is due to the Financial Corporation in respect of any accommodation granted by it to any industrial concern, the Financial Corporation or any person authorised by it in writing in this behalf, may, without prejudice to any other mode of recovery, make an application to the State Government for the recovery of the amount due to it, and if the State Government or such authority, as that Government may specify in this behalf, is satisfied, after following such procedure as may be prescribed, that any amount is so due, it may issue a certificate for that amount to the Collector, and the Collector shall proceed to recover that amount in the same manner as an arrear of land revenue.”

Recovery of amounts due to the Financial Corporation as an arrear of land revenue.

22. In section 33 of the principal Act, in sub-section (2), after the words, brackets and figures “the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970”, the words, figures and brackets “or any of the banks specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980” shall be inserted.

of 1970.
of 1980.

Amendment of section 33.

23. In section 35A of the principal Act, in sub-section (1), the first proviso shall be omitted.

Amendment of section 35A.

24. In section 36 of the principal Act, in sub-section (1), for the words “three months”, the words “four months” shall be substituted.

Amendment of section 36.

25. In section 38 of the principal Act, for sub-sections (1) and (2), the following sub-section shall be substituted, namely:—

Amendment of section 38.

“(1) The Financial Corporation shall furnish to the State Government, the Development Bank and the Reserve Bank such statements and returns in such form as the State Government, the Development Bank or the Reserve Bank may require from time to time.”

26. In section 43 of the principal Act, for the words and figures “Indian Income-tax Act, 1922”, the words and figures “Income-tax Act, 1961” shall be substituted.

of 1922.
of 1961.

Amendment of section 43.

27. In section 43A of the principal Act, after the words “Financial Corporation”, the words and figures “or to any committee appointed under section 21” shall be inserted.

Amendment of section 43A.

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

Insertion of new section 43B.

“43B. (1) The minutes of every meeting of the committee appointed under section 21 shall, after confirmation thereof at the next meeting of the committee, be laid before the Board at the next following meeting of the Board.

Reports to the Board.

(2) Every action taken by the managing director and any other officer of the Financial Corporation shall, as soon as may be after it is taken by them, be reported to the Board."

Amendment of section 46.

29. In section 46 of the principal Act, in sub-section (1),—

(a) for the words "any institution in existence at the commencement of this Act", the words "any institution established by a State Government" shall be substituted;

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

"Provided that no notification shall be issued under this sub-section in respect of any institution unless a request is made in that behalf by the State Government concerned."

Amendment of section 48.

30. In section 48 of the principal Act, in sub-section (2),—

(a) clause (h) shall be omitted;

(b) in clause (m), for the words "advisory committees for technical and other advice", the word "committees" shall be substituted.