

THE INDUSTRIAL FINANCE CORPORATION (AMENDMENT) ACT, 1986

No. 50 OF 1986

[26th November, 1986.]

An Act further to amend the Industrial Finance Corporation Act, 1948.

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

Short
title
and
commence-
ment.

1. (1). This Act, may be called the Industrial Finance Corporation (Amendment) Act, 1986.

(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.

Amend-
ment of
section 2.

2. In section 2 of the Industrial Finance Corporation Act, 1948 (hereinafter referred to as the principal Act), in clause (c),—

15 of 1948.

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

“(v) the generation, storage or distribution of electricity or any other form of energy;”;

(b) in sub-clause (vii), for the word “machinery”, the words “machinery or equipment” shall be substituted;

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

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

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

(e) for sub-clause (xii) and the *Explanation* below that sub-clause, the following sub-clauses and *Explanation* shall be substituted, namely:—

(xii) providing engineering, technical, financial, management, marketing or other services or facilities for industry;

(xiii) providing medical, health or other allied services;

1 2-2-1987 : Vide Notification No. S. O. 47 (E), dated 2-2-1987, Gazette of India, Extraordinary, 1987, Part II, Section 3 (ii).

(xiv) providing services relating to information technology, tele-communication or electronics;

(xv) leasing, sub-leasing or giving on hire or hire-purchase of industrial plants, equipments, machinery or other assets, including vehicles, ships and aircraft;

(xvi) such other activity as the Central Government may, having regard to the objects of this Act, by notification in the Official Gazette, specify in this behalf; or

(xvii) the research and development of any concept, technology, design, process or product, whether in relation to any of the matters aforesaid, including any activities specified under sub-clause (xvi), or any other matter.

Explanation.—For the purposes of sub-clause (i), 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;.

3. In section 4 of the principal Act, after sub-section (1C), the following sub-sections shall be inserted, namely:—

Amendment of section 4.

“(1D) On or after the commencement of the Industrial Finance Corporation (Amendment) Act, 1986, the authorised capital of the Corporation may be increased to such amount not exceeding two hundred and fifty crores of rupees as the Central Government may, from time to time, by notification in the Official Gazette, fix.

(1E) The authorised capital increased under sub-section (1D) shall be divided into such number of shares of five thousand rupees each as may be necessary and the shares representing the capital so increased may be issued with the sanction of the Central Government as and when the Corporation may deem fit.”.

4. In section 10 of the principal Act, in sub-section (1),—

Amendment of section 10.

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

“(a) a Chairman and a Managing Director to be appointed by the Central Government after consultation with the Development Bank:

Provided that the same person may be appointed to function both as Chairman and as Managing Director;”;

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

“(bb) one Director nominated by the Reserve Bank;”.

5. In section 10A of the principal Act,—

(a) in sub-section (1), after the words “Chairman of the Board”, the words “or the Managing Director and, in a case where the same person is appointed to function both as Chairman and as Managing Director, such person” shall be inserted;

Amendment of section 10A.

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

“(2) The Chairman and the Managing Director shall hold office for such term not exceeding five years as the Central Government may specify in this behalf and shall be eligible for re-appointment.”;

(c) in sub-section (2A),—

(i) for the word “Chairman”, at both the places where it occurs, the words “Chairman or the Managing Director” shall be substituted;

(ii) for the words “specified in”, at both the places where they occur, the words “specified under” shall be substituted;

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

“(3A) The Managing Director shall exercise such powers and discharge such duties as are assigned to him by this Act or as may be delegated to him by the Board or the Chairman.”;

(e) in sub-section (4), for the portion beginning with the words “If the Chairman is of opinion” and ending with the words “the Chairman may take such action”, the following shall be substituted, namely:—

“Notwithstanding anything contained in sub-section (3), the Chairman or, in his absence, the Managing Director, is of opinion that circumstances exist which render it necessary for him to take immediate action in respect of any matter which is within the competence of the Board and that the interests of the Corporation may be prejudicially affected if such action is deferred until after the next meeting of the Board, then he may take such action”.

Amend-
ment of
section 11.

6. In section 11 of the principal Act,—

(a) in sub-section (2), for the words “four years”, the words “three years” shall be substituted;

(b) in the proviso to sub-section (4), after the word “Chairman”, the words “, Managing Director” shall be inserted.

Amend-
ment of
section 12.

7. In section 12 of the principal Act, in clause (a), after the words “the Chairman”, the words “or the Managing Director” shall be inserted.

Amend-
ment of
section 13.

8. In section 13 of the principal Act, in sub-section (1), after the words “the Chairman”, the words “or the Managing Director” shall be inserted.

Amend-
ment of
section
13A.

9. In section 13A of the principal Act, after the word “Board”, the words “or the Managing Director” shall be inserted.

10. In section 17 of the principal Act,—

Amend-
ment of
section 17.

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

“(5) The Chairman or, if for any reason he is unable to attend a meeting of the Board, the Managing Director or, in the event of both the Chairman and the Managing Director being unable to attend such meeting, any other Director nominated by the Chairman in this behalf and in the absence of such nomination any Director elected by the Directors present from among themselves, shall preside at the meeting.”;

(b) in sub-section (6),—

(i) after the word, brackets and letter “clause (b)” at both the places where they occur, the words, brackets and letters “or clause (bb)” shall be inserted;

(ii) after the words “Central Government”, the words “or the Reserve Bank” shall be inserted.

11. In section 19 of the principal Act, after the words “State Co-operative Bank”, the words “or, with the approval of the Reserve Bank, with any bank outside India” shall be added.

Amend-
ment of
section 19.

12. In section 20 of the principal Act, for the words “the shares of any financial institution which the Central Government may, in consultation with the Development Bank, notify in this behalf”, the words “the units of the said Unit Trust of India, or the shares, bonds or debentures of any financial or development institution or organisation” shall be substituted.

Amend-
ment of
section 20.

13. In section 21 of the principal Act,—

(a) in sub-section (3), the proviso shall be omitted;

(b) in sub-section (4), for the word “or, with the general or special approval of the Central Government, from any other authority or institution in India”, the words “; the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956, the General Insurance Corporation of India formed and registered under the Companies Act, 1956, the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963, or, with the general or special approval of the Central Government, from any other authority, institution, organisation or trust within or outside India” shall be substituted.

Amend-
ment of
section 21.

14. In section 23 of the principal Act,—

(a) in clause (a), in sub-clause (ii), the word “State” shall be omitted;

(b) in clause (e),—

(i) after the word “Development”, the words “or any other international or national institution or organisation” shall be inserted;

Amend-
ment of
section 23.

31 of 1956.

1 of 1956.

52 of 1963.

(ii) for the words "or debentures subscribed, by either of them", the words "or stocks, shares, bonds or debentures subscribed, by any of them or on their behalf" shall be substituted;

(c) in clause (k),—

(i) after the word "technical", the words " , legal, marketing" shall be inserted;

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

"(l) providing consultancy and merchant banking services in and outside India;"

Amendment of section 30A.

15. In section 30A of the principal Act,—

(a) in sub-section (1), for the words "Directors of that industrial concern", the words "Directors, or, as the case may be, the Administrator of that industrial concern" shall be substituted;

(b) in sub-section (2), for the words " , firm or company to be the managing agents", the words "to be the Manager" shall be substituted.

Amendment of section 30B.

16. In section 30B of the principal Act,—

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

"(c) all persons holding, immediately before the issue of the notified order, office as Directors of the industrial concern or any other offices entitling them to exercise powers of superintendence, direction and control of the industrial concern, shall be deemed to have vacated their offices as such;"

(b) in clause (b), the words "any Managing Agent or" shall be omitted;

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

"(c) the Manager, if any, appointed under section 30A, shall be deemed to have been appointed in pursuance of the provisions of the Companies Act, 1956 and the memorandum and articles of association of the industrial concern or, as the case may be, of any law for the time being in force relating to co-operative societies and the memorandum or other instrument of the industrial concern, and the provisions of the said Act or law, and of the memorandum and articles of association or, as the case may be, memorandum or other instrument shall, subject to the other provisions contained in this Act, apply accordingly; but no such Manager shall be removed from office except with the previous consent of the Corporation;"

(d) in clause (d), for the word "Directors", at both the places where it occurs, the words "Directors or, as the case may be, Administrator" shall be substituted;

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

1 of 1956.

“(e) the Directors appointed under section 30A shall, for all purposes, be the Directors of the industrial concern duly constituted under the Companies Act, 1956 or under any law for the time being in force relating to co-operative societies, and such Directors or, as the case may be, the Administrator appointed under section 30A, shall alone be entitled to exercise all the powers of the Directors (by whatever name called) of the industrial concern, whether such powers are derived from the said Act or law or the memorandum or articles of association or, as the case may be, the memorandum or other instrument of the industrial concern;”

17. In section 30C of the principal Act, in sub-sections (1) and (2), for the word “Directors”, the words “Directors or Administrator” shall be substituted.

Amendment of section 30C.

18. In section 30D of the principal Act,—

Amendment of section 30D.

(a) in sub-section (1), for the words “no managing agent, Managing Director or any other Director of an industrial concern”, the words “no Managing Director or any other Director or Manager or holder of any office having the powers of superintendence, direction and control of an industrial concern” shall be substituted;

(b) in sub-section (2), for the words “managing agent or Managing Director or any other Director”, the words “Managing Director or any other Director or Manager or holder of office referred to in that sub-section” shall be substituted.

19. In section 38A of the principal Act, after the word “Director”, at both the places where it occurs, the words “Administrator” shall be inserted.

Amendment of section 38A.

20. In section 40A of the principal Act, after the words “the Chairman”, the words “, Managing Director”, shall be inserted.

Amendment of section 40A.

21. In section 43 of the principal Act,—

Amendment of section 43.

(a) in sub-section (1), after the words “Development Bank”, the words “and by notification in the Official Gazette” shall be inserted;

(b) in sub-section (2),—

(i) in clause (ee), after the word “Chairman”, the words “, Managing Director” shall be inserted;

(ii) in clause (m), after the word “Directors”, the words “or Administrator” shall be inserted.

22. For the Schedule to the principal Act, the following Schedule shall be substituted, namely:—

Substitution of the Schedule.

"THE SCHEDULE

[See section 39(3)]

DECLARATION ON FIDELITY AND SECRECY

I,....., do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as Director, member of.....committee, auditor, officer or other employee (as the case may be) of the Industrial Finance Corporation of India and which properly relate to the office or position held by me in or in relation to the said Corporation.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Industrial Finance Corporation of India or to the affairs of any person having any dealing with the said Corporation, nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the said Corporation and relating to the business of the said Corporation or the business of any person having any dealing with the said Corporation.

Signed before me.

Signature.....

Date....."