

# THE BANKING REGULATION (AMENDMENT) ACT, 1994

No. 20 OF 1994

[22nd March, 1994.]

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

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

Short  
title and  
com-  
mence-  
ment.

1. (1) This Act may be called the Banking Regulation (Amendment) Act, 1994.

(2) It shall be deemed to have come into force on the 31st day of January, 1994.

Amend-  
ment of  
section  
10B.

2. In section 10B of the Banking Regulation Act, 1949 (hereinafter referred to as the principal Act),— 10 of 1949.

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

“(1) Notwithstanding anything contained in any law for the time being in force or in any contract to the contrary, every banking company in existence on the commencement of the Banking Regulation (Amendment) Act, 1994, or which comes into existence thereafter shall have one of its directors, who may be appointed on a whole-time or a part-time basis, as chairman of its Board of directors, and where he is appointed on a whole-time basis, as chairman of its Board of directors, he shall be entrusted with the management of the whole of the affairs of the banking company:

Provided that the chairman shall exercise his powers subject to the superintendence, control and direction of the Board of directors.

(1A) Where a chairman is appointed on a part-time basis,—

(i) such appointment shall be with the previous approval of the Reserve Bank and be subject to such conditions as the Reserve Bank may specify while giving such approval;

(ii) the management of the whole of the affairs of such banking company shall be entrusted to a managing director who shall exercise his powers subject to the superintendence, control and direction of the Board of directors.”;

(b) in sub-section (2), for the words “Every chairman of the Board of directors”, the words “Every chairman of the Board of directors who is appointed on a whole-time basis and every managing director” shall be substituted;

(c) in sub-section (4),—

(i) in the opening paragraph, for the words “Every chairman of the Board of directors of a banking company”, the words, brackets, figure and letter “Every chairman who is appointed on a whole-time basis and every managing director of a banking company appointed under sub-section (1A)” shall be substituted;

(ii) in the proviso, for the word “chairman”, the words “chairman who is appointed on a whole-time basis or a managing director” shall be substituted;

(d) in sub-sections (5) and (5A), for the words “A chairman of the Board of directors”, the words “A chairman of the Board of directors appointed on a whole-time basis or a managing director” shall be substituted;

(e) in sub-section (6),—

(i) for the words “chairman of the Board of directors” wherever they occur, the words “chairman of the Board of directors who is appointed on a whole-time basis or the managing director” shall be substituted;

(ii) for the words “chairman of its Board of directors” at both the places where they occur, the words “chairman of the Board of directors who is appointed on a whole-time basis or the managing director” shall be substituted;

(iii) for the words “appointed as chairman”, the words “appointed as chairman on a whole-time basis or managing director” shall be substituted;

(f) in sub-section (8),—

(i) for the words “the chairman”, the words “the chairman of the Board of directors who is appointed on a whole-time basis or the managing director” shall be substituted;

(ii) for the words “such chairman”, the words “such chairman or managing director” shall be substituted;

(g) in sub-section (9),—

(i) for the words “appointed as chairman”, the words “appointed on a whole-time basis, as chairman of the Board of directors or managing director” shall be substituted;

- (ii) for the words "duties of chairman", the words "duties of chairman or managing director" shall be substituted.
- Amendment of section 10BB. 3. In section 10BB of the principal Act, for the word "chairman" wherever it occurs, the words "chairman of the Board of directors appointed on a whole-time basis or a managing director" shall be substituted.
- Amendment of section 10C. 4. In section 10C of the principal Act, for the words "A chairman", the words "A chairman of the Board of directors who is appointed on a whole-time basis or a managing director" shall be substituted.
- Amendment of section 10D. 5. In section 10D of the principal Act, for the words "director or chairman", the words "director, chairman of the Board of directors who is appointed on a whole-time basis or managing director" shall be substituted.
- Amendment of section 12. 6. In section 12 of the principal Act, in sub-section (2), for the words "one per cent.", the words "ten per cent." shall be substituted.
- Amendment of section 16. 7. In section 16 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—
- “(1) No banking company incorporated in India shall have as a director in its Board of directors any person who is a director of any other banking company.
- (1A) No banking company referred to in sub-section (1) shall have in its Board of directors, more than three directors who are directors 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 that banking company.”
- Amendment of section 46. 8. In section 46 of the principal Act, in sub-section (4), for the portion beginning with the words "two thousand rupees" and ending with the words "one hundred rupees", the following shall be substituted, namely:—
- “fifty thousand rupees or twice the amount involved in such contravention or default where such amount is quantifiable, whichever is more, and where a contravention or default is a continuing one, with a further fine which may extend to two thousand and five hundred rupees”.
- Amendment of section 46A. 9. In section 46A of the principal Act, for the words "Every chairman, director, auditor", the words "Every chairman who is appointed on a whole-time basis, managing director, director, auditor" shall be substituted.
- Amendment of section 47A. 10. In section 47A of the principal Act,—
- (i) in sub-section (1), in clause (b), for the portion beginning with the words "two thousand rupees" and ending with the words "one hundred rupees", the following shall be substituted, namely:—
- “five lakh rupees or twice the amount involved in such contravention or default where such amount is quantifiable,

whichever is more, and where such contravention or default is a continuing one, a further penalty which may extend to twenty-five thousand rupees”;

(ii) for sub-sections (2) and (3), the following sub-section shall be substituted, namely:—

“(2) For the purpose of adjudging the penalty under sub-section (1), the Reserve Bank shall serve notice on the banking company requiring it to show cause why the amount specified in the notice should not be imposed and a reasonable opportunity of being heard shall also be given to such banking company.”.

Ord. 5  
of 1994.

11. (1) The Banking Regulation (Amendment) Ordinance, 1994, is hereby repealed.

Repeal  
and  
saving.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.