

THE NATIONAL BANK FOR AGRICULTURE AND RURAL
DEVELOPMENT (AMENDMENT) ACT, 2000

No. 55 OF 2000

[30th December, 2000.]

An Act further to amend the National Bank for Agriculture and Rural
Development Act, 1981.

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

Short title and
commence-
ment.

1. (1) This Act may be called the National Bank for Agriculture and Rural
Development (Amendment) Act, 2000.

(2) Save as otherwise provided in this Act, it shall come into force on such date *
as the Central Government may, by notification in Official Gazette, appoint.

Amendment of
long title.

2. In the National Bank for Agriculture and Rural Development Bank Act, 1981 61 of 1981.
(hereinafter referred to as the principal Act), for the long title, the following shall be
substituted, namely:—

* 1-2-2001: Vide Notification No. S.O. 1111 dt. 1-2-2001

“An Act to establish a development bank to be known as the National Bank for Agriculture and Rural Development for providing and regulating credit and other facilities for the promotion and development of agriculture, small-scale industries, cottage and village industries, handicrafts and other rural crafts and other allied economic activities in rural areas with a view to promoting integrated rural development and securing prosperity of rural areas and for matters connected therewith or incidental thereto.”

3. In section 2 of the principal Act, in clause (e), the words “of the Board” shall be omitted.

Amendment of section 2.

4. In section 4 of the principal Act,—

Amendment of section 4.

(i) in sub-section (1), in the proviso, for the words “five hundred crores”, the words “five thousand crores” shall be substituted;

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

“(2) The capital of the National Bank shall be subscribed to by the Central Government and the Reserve Bank to such extent and in such proportion as may be notified by the Central Government in consultation with the Reserve Bank, from time to time:

Provided that the National Bank may issue capital to such institutions and persons in such manner as may be notified by the Central Government:

Provided further that the combined shareholding of the Central Government and the Reserve Bank shall not at any time be less than fifty-per cent. of the total subscribed capital.”

5. In section 6 of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

Amendment of section 6.

“(1) The Board of Directors of the National Bank shall consist of the following, namely:—

(a) a Chairman;

(b) three directors from amongst experts in rural economics, rural development, village and cottage industries, small-scale industries or persons having experience in the working of co-operative banks, regional rural banks or commercial banks or any other matter the special knowledge or professional experience in which is considered by the Central Government as useful to the National Bank;

(c) three directors from out of the directors of the Reserve Bank;

(d) three directors from amongst the officials of the Central Government;

(e) four directors from amongst the officials of the State Governments;

(f) such number of directors elected in the prescribed manner, by shareholders other than the Reserve Bank, the Central Government and other institutions owned or controlled by the Central Government whose names are entered on the register of shareholders of the National Bank ninety days before the date of the meeting in which such election takes place on the following basis, namely:—

(i) where the total amount of equity.....two directors;
share capital issued to such shareholders is
ten per cent. or less of the total issued equity
capital

(ii) where the total amount of equity three directors;
share capital issued to such shareholders is and
more than ten per cent. but less than twenty-
five per cent. of the total issued equity capital

(iii) where the total equity share capital four directors;
issued to such shareholders is twenty-five
per cent. or more of the total issued equity
capital

Provided that until the assumption of charge by the elected directors under this clause, the Central Government may at any time nominate such number of directors not exceeding four from amongst persons having special knowledge of, and professional experience in, agricultural science, technology, economics, banking, co-operatives, law, rural finance, investment, accountancy, marketing or any other matter, the special knowledge of, and professional experience in, which would, in the opinion of the Central Government, be useful to the National Bank for carrying out its functions; and

(g) a Managing Director.

(2) The Chairman and other directors, excluding the directors referred to in clause (f), shall be appointed by the Central Government in consultation with the Reserve Bank:

Provided that no such consultation shall be necessary in the case of directors appointed under clause (d) of sub-section (1)."

Amendment of
section 7.

6. In section 7 of the principal Act,—

(i) in sub-section (1), the words "and shall be eligible for re-appointment" shall be added at the end;

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

"(1B) In the case of a vacancy in the office of the Chairman, the Managing Director shall perform the functions and duties of the Chairman during such vacancy.";

(iii) in sub-section (2), the words "and thereafter until his successor enters upon his office" shall be omitted;

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

"(4) The Chairman and any other director, who is not an officer of the Central Government or a State Government or an officer of the Reserve Bank or any body or corporation established by or under any Central Act or any State Act and owned or controlled by such Government, shall be paid such fees and allowances as may be prescribed for attending the meetings of the Board or of any of its committees and for attending to any other work of the National Bank."

Amendment of
section 8.

7. In section 8 of the principal Act, in sub-section (1), in clause (a), the words "and shall be eligible for re-appointment" shall be added at the end.

Amendment of
section 12.

8. In section 12 of the principal Act, in sub-section (2), after the words "unable to attend any meeting," the words "the Managing Director and in the absence of both, the Chairman and the Managing Director," shall be inserted.

Amendment of
section 14.

9. In section 14 of the principal Act, in sub-section (1), for the words "The Board shall", the words "The Board may" shall be substituted.

10. In section 19 of the principal Act,—

Amendment of section 19.

(i) for clause (a), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 26th day of September, 2000, namely:—

“(a) issue and sell bonds, debentures and other financial instruments with or without guarantee of the Central Government on such terms and conditions as may be approved by the Board;”;

(ii) for clauses (b) to (e), the following clauses shall be substituted, namely:—

“(b) borrow money from the Reserve Bank repayable on demand or otherwise on such terms and conditions including the terms relating to security and purposes as may be specified by the Reserve Bank;

(c) borrow money from the Central Government and from any other authority or organisation or institution approved by the Board, on such terms and conditions as may be agreed upon;

(d) accept from the Central Government, a State Government, a local authority, a State land development bank, a State co-operative bank or a scheduled bank or any person or body, whether incorporated or not, deposits repayable on such terms as the National Bank may, with the approval of the Reserve Bank, fix; and

(e) receive gifts, grants, donations or benefactions from the Central Government or any State Government or any other source.”.

11. For section 20 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 20.

“20. Notwithstanding anything contained in the Foreign Exchange Management Act, 1999, or in any other law for the time being in force, relating to foreign exchange, the National Bank may borrow, with the previous approval of the Central Government and in consultation with the Reserve Bank, foreign currency from any bank or financial institution in India or elsewhere, for granting loans and advances or for utilising such currency for any other purpose specified under the provisions of this Act.”.

Borrowings in foreign currency.

42 of 1999.

12. In section 25 of the principal Act, in sub-section (1), in clause (d), after the words “by way of refinance”, the words “or otherwise” shall be inserted.

Amendment of section 25.

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

Substitution of new section for section 26.

“26. The National Bank may subscribe to, or purchase or sell stocks, shares, bonds or debentures of, or invest in the securities of, any institution or class of institutions concerned with agriculture and rural development which the Board may approve subject to such terms and conditions as it may deem fit.”.

Purchase and sale of shares.

14. After section 27 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 27A.

“27A. The National Bank may make loans and advances to any State Government or a corporation owned or controlled by the State Government or to any other person or class of persons, as may be approved by the Board, repayable on the expiry of a fixed period not exceeding twenty-five years from the date of making of such loans and advances and subject to such terms and conditions, as may be approved by the Board, for the purpose of development of infrastructure facilities for promotion of agriculture and rural development.”.

Loans to State Government, undertakings, etc.

Amendment of
section 28.

15. In section 28 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), no guarantee or security referred to therein shall be required in cases in which the Board, for reasons to be recorded in writing, decides that no such security or guarantee is necessary in respect of a scheduled bank, a State co-operative bank or any person or class of persons, specifically approved by the Board or in respect of any scheme or class of schemes, having regard to the nature and scope of the scheme or schemes for which accommodation is proposed to be granted by the National Bank.”.

Amendment of
section 29.

16. In section 29 of the principal Act, after sub-section (2), the following shall be inserted, namely:—

“(3) Notwithstanding anything to the contrary contained in any law for the time being in force, where a liquidator is appointed for winding up a borrowing institution, it shall be the duty of the liquidator to forthwith pass on to the National Bank the sums recovered by the borrowing institution or the liquidator, as the case may be, in repayment or realisation of the loans and advances refinanced either wholly or partly by the National Bank to the extent the refinance is outstanding and the National Bank shall be entitled to enforce the securities held by the borrowing institution in trust for the National Bank as if every reference to the borrowing institution in any contract, security or other document obtained by borrowing institution is a reference to the National Bank and accordingly, the National Bank shall be entitled to recover the balance sums due under such loans and advances from the constituents of borrowing institution and any discharge given by the National Bank to such constituent shall be a valid discharge and the liquidator shall, on demand made by the National Bank, deliver to it all such contracts, securities and other documents, for due enforcement thereof by the National Bank.

Explanation.—For the purposes of this sub-section, the word “liquidator” shall include liquidator or a provisional liquidator or any person or authority entrusted with the duty of liquidating the borrowing institution.’.

Substitution of
new sections
for section 30.

17. For section 30 of the principal Act, the following sections shall be substituted, namely:—

Direct loans.

“30. The National Bank may, in exceptional circumstances to be recorded in writing by the Board, by itself or in association with other financial institutions or scheduled banks, make loans and advances, otherwise than by way of refinance to any person or class of persons or body corporate, on such terms and conditions, including security and repayable within such period not exceeding twenty-five years, as the National Bank may deem fit.

Bills
rediscounting.

30A. The National Bank may rediscount bills of exchange and promissory notes made, drawn, accepted or endorsed by any company or body corporate concerned with agriculture and rural development presented by a scheduled bank, a State co-operative bank, State land development bank, regional rural bank or any other institution or class of institutions approved by the Board.”.

Substitution of
new section
for section 32.

18. For section 32 of the principal Act, the following section shall be substituted, namely:—

Issue of
guarantees.

“32. The National Bank may guarantee, subject to such directions as may be issued by the Board, from time to time, deferred payments in connection with the purchase of capital goods or for any other purpose for giving effect to the provisions of this Act, due from any person or class of persons, whether incorporated or not.”.

19. In section 33 of the principal Act, for the words "under this Chapter with a borrowing institution", the words "under this Act with a borrower" shall be substituted.

Amendment of section 33.

20. For section 34 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 34.

"34. Notwithstanding anything to the contrary contained in any agreement or arrangement, the National Bank may, by notice in writing, require any borrower or assisted person to whom it has granted any loan or other financial assistance including grants, to discharge forthwith in full, the loan or other financial assistance, including grants, as the case may be,—

Power to call for repayment before agreed period.

(a) if it appears to the National Bank that false or misleading information in any material particulars was given in the application for the loan or other financial assistance; or

(b) if the borrower or the person has failed to comply with any of the terms of the contract or arrangement with the National Bank in the matter of loan or other financial assistance, including grants; or

(c) if there is a reasonable apprehension that the borrower is unable to pay its debts or that proceedings for liquidation may be commenced in respect thereof; or

(d) if for any reason it is necessary so to do, to protect the interests of the National Bank."

21. In section 35 of the principal Act, for sub-section (J), the following sub-section shall be substituted, namely:—

Amendment of section 35.

"(J) The National Bank shall have free access to all such records of a borrower seeking to avail of any credit or other facilities from the National Bank under this Act and also to all such records of any person seeking to avail of any credit or other facilities from such borrower, perusal whereof may appear to the National Bank to be necessary in connection with the providing of finance or other assistance to such borrower or the refinancing of any loan or advance made to such person by the borrower."

22. After section 37 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 37A.

'37A. (J) The National Bank shall not make any loans or advances under section 30 or make any grants under this Act to any person or body of persons of which any of the directors of the National Bank is a proprietor, partner, director, manager, agent, employee or guarantor or in which one or more directors of the National Bank together hold substantial interest:

Prohibited business.

Provided that this sub-section shall not apply to any borrower if any director of the National Bank—

(a) is nominated as director of the Board of such borrower by the Government or a Government company as defined in section 617 of the Companies Act, 1956 or by a corporation established by any other law;

(b) is elected on the Board of such borrower by virtue of shares held in the borrower organisation by the Government, or a Government company as defined in section 617 of the Companies Act, 1956 or by a corporation established by any other law,

by reason only of such nomination or election, as the case may be.

Explanation.—For the purposes of this sub-section, “substantial interest”, in relation to a borrower, means the beneficial interest held by one or more of the directors of the National Bank or by any relative of such director as defined in clause (41) of section 2 of the Companies Act, 1956, whether singly or taken together, in the shares of the borrower, the aggregate amount paid-up on which either exceeds five lakhs of rupees or five per cent. of the paid-up share capital of the borrower, whichever is lesser.

1 of 1956.

(2) The provisions of sub-section (1)—

(a) shall not apply to any borrower, if the National Bank is satisfied that it is necessary in the public interest to enter into business with that borrower and entering into any kind of business with such borrower shall be in accordance with and subject to such conditions and limitations, as may be approved by the Board;

(b) shall not apply to any transaction relating to the business entered into prior to the commencement of the National Bank for Agriculture and Rural Development (Amendment) Act, 2000, and all such business and any transaction in relation thereto may be implemented or continued as if that Act had not come into force;

(c) shall apply only so long as the conditions precedent to such disability as set out in the said sub-section continue.’

Amendment
of section 38.

23. In section 38 of the principal Act,—

(a) in clause (iii), for the words “make grants”, the words “make loans or advances or grants” shall be substituted;

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

“(iv) may provide technical, legal, financial, marketing and administrative assistance to any person engaged in agriculture and rural development activities;

(v) may provide consultancy services in the field of agriculture and rural development and other related matters in or outside India, on such terms and against such remuneration, as may be agreed upon;

(vi) may perform the functions entrusted to or required of the National Bank by any other law for the time being in force; and

(vii) do any other kind of business or undertake any other kind of activity which the Central Government or the Reserve Bank may authorise.”

Insertion of
new sections
38A to 38C.

24. After section 38 of the principal Act, the following sections shall be inserted, namely:—

Promotion of
subsidiaries.

“38A. The National Bank may, in consultation with the Reserve Bank, promote, form or manage or associate itself in promotion, formation or management of companies, subsidiaries, affiliates, societies, trusts or such other association of persons, as it may deem fit, for the purpose of carrying out its functions under this Act.

Securitisation
of debt.

38B. Notwithstanding anything contained in this Act, the National Bank may—

(a) create one or more trusts and transfer loans and advances granted by it, with or without the securities, to such trusts, for consideration;

(b) set aside loans or advances held by the National Bank and issue and sell securities based upon such loans or advances so set aside in the form of debt obligations, trust certificates of beneficial interest or other instruments, by whatever name called, and act as a trustee for the holders of such securities.

16 of 1908.

38C. Notwithstanding anything contained in sub-section (1) of section 17 of the Registration Act, 1908,—

(a) any instrument in the form of debt obligations or trust certificate of beneficial interest or any other instrument, by whatsoever name called, issued by the National Bank or the trust created by it to securitise the loans granted by it and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property; or

(b) any transfer of such instruments referred to in clause (a), shall not require compulsory registration.”

Exemption from compulsory registration.

25. For section 40 of the principal Act, the following section shall be substituted, namely:—

“40. (1) The National Bank may invest its funds in promissory notes, stocks or securities of the Central Government or keep the moneys deposited with the Reserve Bank or with any agency of the Reserve Bank or with a State co-operative bank or a scheduled bank.

(2) Notwithstanding anything contained in sub-section (1) or section 30A, the National Bank may, for beneficial investment of its surplus funds, rediscount bills of exchange or promissory notes arising out of *bona fide* trade and commercial transactions and also lend repayable at call or short notice to a scheduled bank or any financial institution approved by the Reserve Bank, or invest in certificates of deposit and other instruments or schemes as may be approved by the Board.”

Substitution of new section for section 40.

Deposits and investments.

26. In section 44 of the principal Act, in sub-section (2), for the words “making of grants”, the words “making of loans or advances or grants” shall be substituted.

Amendment of section 44.

27. In section 45 of the principal Act, for the words “and such other Funds”, the words “and other Funds” shall be substituted.

Amendment of section 45.

28. In section 47 of the principal Act, for clause (ii), the following clause shall be substituted, namely:—

Amendment of section 47.

“(ii) after the expiry of the said period of fifteen years, the Board shall, after making provision for the Fund referred to in clause (i), disburse or spend the balance of the surplus in such manner as may be approved by the Board.”

29. After section 52 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 52A.

“52A. (1) Where any agreement entered into by the National Bank with a company or a body corporate while granting loans and advances, provides for the appointment by the National Bank of one or more directors of such company or body corporate, such provisions and any appointment of directors made in pursuance thereof shall be valid and effective, notwithstanding anything to the contrary contained in the Companies Act, 1956 or in any other law for the time being in force, or in the memorandum, articles of association or any other instrument relating to the company or body corporate, and any provision regarding share qualification, age-limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the National Bank in pursuance of the agreement as aforesaid.

Agreement with National Bank on appointment of directors to prevail.

(2) Any director appointed as aforesaid shall—

(a) hold office during the pleasure of the National Bank and may be removed or substituted by any person by order in writing of the National Bank;

1 of 1956.

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(b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(c) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.”.

Amendment
of section 60.

30. In section 60 of the principal Act, in sub-section (2),—

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

“(e) the manner of election of directors under clause (f) of sub-section (1) of section 6;”;

(ii) clauses (f) and (h) shall be omitted.

Repeal and
saving.

31. (1) The National Bank for Agriculture and Rural Development (Amendment) Ordinance, 2000 is hereby repealed.

Ord.
4 of 2000.

(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.