CENTRAL ORDINANCES

1986
2. The Ravi and Beas Waters Tribunal Ordinance, 1986.

1987

1988

1989
2. The Representation of the People (Amendment) Ordinance, 1989.
1990
2. The Indian Council of World Affairs Ordinance, 1990
8. The Finance (Second Amendment) Ordinance, 1990.
* Corrigenda to Ordinance No. 9 of 1990.

1991

1992
2. The Representation of the People (Second Amendment) Ordinance, 1992.
15. The Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1992.

1993.
2. The Indian Medical Council (Amendment) Ordinance, 1993.
8. The Acquisition of Certain Area at Ayodhya Ordinance, 1993.
32. The Chief Election Commissioner and other Election Commissioners (Conditions of Service) Amendment Ordinance, 1993.
34. The Merchant Shipping (Amendment) Ordinance, 1993.

1994.
2. The Mines and Minerals (Regulation and Development) Amendment Ordinance, 1994

1995.
Ministry of Law and Justice
(legislative Department)

New Delhi, the 22nd January, 1986/Magha 2, 1907 (Saka)

The Administrative Tribunals (Amendment) Ordinance, 1986

No. 1 of 1986

Promulgated by the President in the Thirty-sixth Year of the Republic of India.

An Ordinance to amend the Administrative Tribunals Act, 1985.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action:

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Administrative Tribunals (Amendment) Ordinance, 1986.

(2) It shall come into force at once.

2. In the Administrative Tribunals Act, 1985 (hereinafter referred to as the principal Act), in the long title, after the words “any corporation”, the words “or society” shall be inserted.
3. In section 2 of the principal Act, clause (b) shall be omitted.

4. In section 3 of the principal Act,—

(a) clause (a) shall be re-lettered as clause (aa), and before clause (aa) as so re-lettered, the following clause shall be inserted, namely:

'(a) "Administrative Member" means a Member of a Tribunal who is not a Judicial Member within the meaning of clause (i);'

(b) for clause (i), the following clauses shall be substituted, namely:

'(i) "Judicial Member" means a Member of a Tribunal appointed as such under this Act, and includes the Chairman or a Vice-Chairman who possesses any of the qualifications specified in sub-section (3) of section 6;

(ii) "Member" means a Member (whether Judicial or Administrative) of a Tribunal, and includes the Chairman and a Vice-Chairman;'

(c) clause (u) shall be omitted;

(d) in clause (q), after the words "any corporation", the words "or society" shall be inserted;

(e) after clause (r), the following clause shall be inserted, namely:

'(rr) "society" means a society registered under the Societies Registration Act, 1860, or under any corresponding law for the time being in force in a State;'

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

"(5) Notwithstanding anything contained in the foregoing provisions of this section, or sub-section (1) of section 5, the Central Government, may,—

(a) with the concurrence of any State Government, designate, by notification, all or any of the Members of the Bench or Benches of the State Administrative Tribunal established for that State under sub-section (2) as Members of the Bench or Benches of the Central Administrative Tribunal in respect of that State and the same shall exercise the jurisdiction, powers and authority of the Central Administrative Tribunal by or under this Act;

(b) on receipt of a request in this behalf from any State Government, designate, by notification, all or any of the Members of the Bench or Benches of the Central Administrative Tribunal functioning in that State as the Members of the Bench or Benches of the State Administrative Tribunal for that State
and the same shall exercise the jurisdiction, powers and authority of the State Administrative Tribunal as if established by or under this Act for that State, and upon such designation, the Bench or Benches of the State Administrative Tribunal or, as the case may be, the Bench or Benches of the Central Administrative Tribunal shall be deemed, in all respects, to be the Central Administrative Tribunal, or the State Administrative Tribunal for that State established under the provisions of article 323A of the Constitution and this Act.

(6) Every notification under sub-section (5) shall also provide for the apportionment between the State concerned and the Central Government of the expenditure in connection with the Members common to the Central Administrative Tribunal and State Administrative Tribunal and such other incidental and consequential provisions not inconsistent with this Act as may be deemed necessary or expedient.”.

6. In section 5 of the principal Act,—

(a) in sub-section (1), for the words “and other Members”, the words “and Judicial and Administrative Members” shall be substituted;

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

“(2) Subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Administrative Member.”;

(c) sub-section (3) shall be omitted;

(d) in sub-section (4),—

(i) in the opening portion, the words, brackets and figure “or sub-section (3)” shall be omitted;

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

“(a) may, in addition to discharging the functions of the Judicial Member or the Administrative Member of the Bench, to which he is appointed, discharge the functions of the Judicial Member or, as the case may be, the Administrative Member, of any other Bench;”;

(iii) in clause (c), for the words “the Vice-Chairman or, as the case may be, other Member of another Bench”, the words “the Judicial Member or the Administrative Member, as the case may be, of another Bench” shall be substituted;

(iv) in clause (d),—

(1) for the words “three Members”, the words “two Members” shall be substituted;

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

“Provided that every Bench constituted in pursuance of this clause shall include at least one Judicial Member and one Administrative Member.”;
(e) sub-section (5) shall be omitted;

(f) in sub-section (6),—

(i) in the opening paragraph, for the words "an additional Bench", the words "a Bench" shall be substituted;

(ii) in the proviso, for the words "three Members", the words "two Members" shall be substituted;

(g) in sub-section (7), the words "principal Bench and other" shall be omitted.

7. In section 6 of the principal Act,—

(a) in sub-section (2),—

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

"(bb) has, for at least five years, held the post of an Additional Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government of India; or";

(ii) in clause (c), for the words "a Member", the words "a Judicial Member or an Administrative Member" shall be substituted;

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

"(3) A person shall not be qualified for appointment as a Judicial Member unless he—

(a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) has been a member of the Indian Legal Service and has held a post in Grade I of that Service for at least three years.

(3A) A person shall not be qualified for appointment as an Administrative Member unless he—

(a) has, for at least two years, held the post of an Additional Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government of India; or

(b) has, for at least three years, held the post of a Joint Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India,

and shall, in either case, have adequate administrative experience.";
(c) in sub-sections (4) and (5), for the words "The Chairman", the words, brackets and figure "Subject to the provisions of sub-section (7), the Chairman" shall be substituted;

(d) in sub-section (6), after the words, brackets and figures "under sub-section (3) of section 4", the words, brackets and figure "and subject to the provisions of sub-section (7)" shall be inserted;

(e) after sub-section (6), the following sub-section shall be inserted, namely:

"(7) No appointment of a person possessing the qualifications specified in sub-section (3) as the Chairman, a Vice-Chairman or a Judicial Member shall be made except after consultation with the Chief Justice of India."

8. In section 11 of the principal Act, in the Explanation, after the words "any corporation", the words "or society" shall be inserted.

9. In section 12 of the principal Act,—

(a) in the opening paragraph, the words "principal Bench and each of the additional" shall be omitted;

(b) in the proviso, for the words "the Vice-Chairman, subject to the condition that the Vice-Chairman", the words "the vice-Chairman or any officer of the Tribunal, subject to the condition that the Vice-Chairman or such officer" shall be substituted.

10. In section 13 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:

"(1A) The officers and other employees of a Tribunal shall discharge their functions under the general superintendence of the Chairman.".

11. In sections 14 and 15 of the principal Act,—

(a) the words and figures "under article 136 of the Constitution", wherever they occur, shall be omitted;

(b) after the word "corporation", wherever it occurs, the words "or society" shall be inserted;

(c) after the word "corporations", wherever it occurs, the words "or societies" shall be inserted.

12. In sub-section (1) of section 18 of the principal Act,—

(a) for the words "any additional Bench or Benches of a Tribunal is or are constituted", the words "any Benches of a Tribunal are constituted" shall be substituted;

(b) the words "principal Bench and the additional Bench or additional" shall be omitted.
13. In section 19 of the principal Act,— 

(a) in the Explanation below sub-section (1), after the word "corporation", at both the places where it occurs, the words "or society" shall be inserted; 

(b) in sub-section (2), for the words "as may be prescribed by the Central Government", the words "in respect of the filing of such application and by such other fees for the service or execution of processes, as may be prescribed by the Central Government" shall be substituted; 

(c) for sub-section (3), the following sub-section shall be substituted, namely:— 

"(3) On receipt of an application under sub-section (1), the Tribunal shall, if satisfied after such inquiry as it may deem necessary, that the application is a fit case for adjudication or trial by it, admit such application; but where the Tribunal is not so satisfied, it may summarily reject the application after recording its reasons.". 

14. In section 22 of the principal Act,— 

(a) in sub-section (2), for the words "after hearing of oral arguments, if any, allowed by the Tribunal in the circumstances of the case", the words "after hearing such oral arguments as may be adduced" shall be substituted; 

(b) in sub-section (3), for the words "holding any inquiry", the words "discharging its functions under this Act" shall be substituted. 

15. In sub-section (2) of section 23 of the principal Act,— 

(a) after the word "corporation", the words "or society" shall be inserted; 

(b) for the portion beginning with the words "may appoint" and ending with the words "before a Tribunal", the words "may authorise one or more legal practitioners or any of its officers to act as presenting officers and every person so authorised by it may present its case with respect to any application before a Tribunal" shall be substituted. 

16. For sections 25 and 26 of the principal Act, the following sections shall be substituted, namely:— 

"25. On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to any other Bench."
26. If the Members of a Bench differ in opinion on any point, the Decision to be by
decision shall be decided according to the opinion of the majority, if majority,
there is a majority. But if the Members are equally divided, they shall state the point or points on which they differ, and make a reference to the Chairman who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Tribunal and such point or points shall be decided according to the opinion of the majority of the Members of the Tribunal who have heard the case, including those who first heard it.

17. In section 28 of the principal Act, for the words, brackets and figures “no court (except the Supreme Court under article 136 of the Constitution) shall have”, the following shall be substituted, namely:—

“no court except,—

(a) the Supreme Court; or

(b) any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947 or any other corresponding law for the time being in force,

shall have”.

18. In section 29 of the principal Act,—

(a) in sub-section (1), in the proviso, the words “or the Supreme Court” shall be omitted;

(b) in sub-section (2),—

(i) after the word “corporation”, wherever it occurs, the words “or society” shall be inserted;

(ii) in the proviso, the words “or the Supreme Court” shall be omitted.

19. In sub-section (2) of section 35 of the principal Act,—

(a) in clause (a), for the words “three Members”, the words “two Members” shall be substituted;

(b) in clause (d), for the words “and the fees payable in respect of such application”, the words “and the fees payable in respect of the filing of such application or for the service or execution of processes” shall be substituted.

20. In section 36 of the principal Act, in clause (a), the words “principal Bench and the additional” shall be omitted.

21. Every person holding office as Chairman, Vice-Chairman or other Member of the Central Administrative Tribunal immediately before the commencement of this Ordinance shall,—

(a) if he possesses any of the qualifications specified for appointment as a Judicial Member under the principal Act, as amended by
this Ordinance, be deemed, on and from such commencement, to have been appointed as a Judicial Member of such Tribunal; and

(b) in any other case, be deemed, on and from such commencement, to have been appointed as an Administrative Member of such Tribunal.

ZAIL SINGH,
President.

S. RAMAIAH,
Secy. to the Govt. of India.
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 24th January, 1986/Magha 4, 1907 (Saka)

THE RAVI AND BEAS WATERS TRIBUNAL ORDINANCE,
1986

No. 2 of 1986

Promulgated by the President in the Thirty-sixth Year of the Republic of India

An Ordinance to provide for the constitution of a Tribunal for the verification of the quantum of usage of water claimed by the farmers of Punjab, Haryana and Rajasthan from the Ravi-Beas system as on the 1st day of July, 1985, and the waters used for consumptive purposes and for the adjudication of the claim of Punjab and Haryana regarding the shares in their remaining waters.

WHEREAS paragraph 9.1 of the Punjab Settlement provides that the farmers of the States of Punjab, Haryana and Rajasthan will continue to get water not less than what they were using from the Ravi-Beas system as on the 1st day of July, 1985, and that waters used for consumptive purposes will also remain unaffected and the quantum of usage so claimed shall be verified by a Tribunal referred to in paragraph 9.2 of the said Settlement;

(1)
AND WHEREAS paragraph 9.2 of the said Punjab Settlement also provides that the claim of the States of Punjab and Haryana regarding the shares in their remaining waters will be referred for adjudication to a Tribunal to be presided over by a Supreme Court Judge;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Ravi and Beas Waters Tribunal Ordinance, 1986.

(2) It extends to the States of Punjab, Haryana and Rajasthan.

(3) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,—

(a) "Punjab Settlement" means the Memorandum of Settlement on the Punjab problem signed at New Delhi on the 24th day of July, 1985;

(b) "Tribunal" means the Ravi and Beas Waters Tribunal constituted under section 3.

3. (1) As soon as may be after the commencement of this Ordinance, the Central Government shall, by notification in the Official Gazette, constitute a Tribunal to be known as the Ravi and Beas Waters Tribunal for the verification and adjudication of the matters referred to in paragraph 9 of the Punjab Settlement.

(2) The Tribunal shall be a single member Tribunal presided over by a person nominated by the Chief Justice of India from amongst persons who at the time of such nomination are Judges of the Supreme Court.

(3) The Tribunal may appoint two or more persons as assessors to advise it in any proceeding before it.

(4) The presiding officer of the Tribunal and the assessors appointed under sub-section (3) shall receive such remuneration, allowances or fees as may be specified by the Central Government.

4. (1) When a Tribunal has been constituted under section 3, the Central Government shall refer the matters specified in paragraph 9 of the Punjab Settlement to the Tribunal for verification and adjudication.

(2) The Tribunal shall investigate the matters referred to it and forward to the Central Government a report, within such period as may be specified in the reference under sub-section (1), setting out the facts as found by it and giving its decision on the matters referred to it.

(3) The Central Government shall publish the decision of the Tribunal in the Official Gazette, and such decision shall be final and binding on the parties to the proceeding before it and shall be given effect to by them.
5. If, for any reason, a vacancy (other than a temporary absence) occurs in the office of the presiding officer of the Tribunal, such vacancy shall be filled in accordance with the provisions of sub-section (2) of section 3 and the investigation of the matters referred to the Tribunal may be continued by the Tribunal after the vacancy is filled from the stage at which the vacancy occurred.

6. (1) The Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of the following matters, namely:

   (a) summoning and enforcing the attendance of any person and examining him on oath;

   (b) requiring the discovery and production of documents and material objects;

   (c) issuing commissions for the examination of witnesses or for local investigation.

(2) The Tribunal may require any State Government to carry out, or permit to be carried out, surveys and investigation as may be considered necessary for the verification or adjudication of any matter referred to it.

(3) Subject to the provisions of this Ordinance, the Tribunal may, by order, regulate its own practice and procedure.

7. Notwithstanding anything contained in any other law, no court shall have, or exercise, jurisdiction in respect of the matters which may be referred to the Tribunal under this Ordinance.

8. The Central Government shall dissolve the Tribunal after it has forwarded its decision to the Central Government.

9. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

ZAIL SINGH,
President.

S. RAMAIAH,
Secy. to the Govt. of India.

CORRIGENDA

In the Administrative Tribunals (Amendment) Ordinance, 1986 (1 of 1986) as published in the Gazette of India, Extraordinary, Part II, Section 1 (No. 6), dated the 22nd January, 1986,—

(a) at page 2, in line 40, for "Government designate" read "Government, designate";
(b) at page 4, in line 31, for "unless—" read "unless he—";

(c) at page 5,—

(i) in line 1, for "in sub-section (4) and (5)" read "in sub-
sections (4) and (5)";

(ii) in the marginal heading of section 11, for "section"
read "sections".
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 28th January, 1986/Magha 8, 1907 (Saka)

THE CONTRACT LABOUR (REGULATION AND ABOLITION) AMENDMENT ORDINANCE, 1986

No. 3 of 1986

Promulgated by the President in the Thirty-seventh year of the Republic of India.

An Ordinance to amend the Contract Labour (Regulation and Abolition) Act, 1970.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action.

NOW THEREFORE, in exercise of the powers, conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Contract Labour (Regulation and Abolition) Amendment Ordinance, 1986.

(2) It shall come into force at once.

(1)
2. In section 2 of the Contract Labour (Regulation and Abolition) Act, 1970, in sub-section (i), for clause (a), the following clause shall be substituted, namely:

"(a) "appropriate Government" means,—

(i) in relation to an establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947, is the Central Government, the Central Government;

(ii) in relation to any other establishment, the Government of the State in which that other establishment is situate;".

ZAIL SINGH,
President.

S. RAMAIH,
Secy. to the Govt. of India.
Repealed by Act 9 of 1986, S. 5

राजस्थान से. डी-(डी)-72

REGISTERED No. D-(D)-72

भारत का संसार

The Gazette of India

EXTRAORDINARY

भाग II—बांट 1

PART II—Section 1

प्राप्तिकार में प्रकाशित

PUBLISHED BY AUTHORITY

No. 12] NEW DELHI, TUESDAY, JANUARY 28, 1986/MAGHA 8, 1907

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 28th January, 1986/Magha 8, 1907 (Saka)

THE MOTOR VEHICLES (AMENDMENT) ORDINANCE, 1986

No. 4 of 1986

Promulgated by the President in the Thirty-seventh year of

the Republic of India.

An Ordinance further to amend the Motor Vehicles Act, 1939.

WHEREAS Parliament is not in session and the President is satisfied that

circumstances exist which render it necessary for him to take immediate

action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of

article 123 of the Constitution, the President is pleased to promulgate the

following Ordinance:

1. (1) This Ordinance may be called the Motor Vehicles (Amendment) Ordinance, 1986.

(2) It shall come into force at once.

2. In section 47 of the Motor Vehicles Act, 1939 (hereinafter referred to as the principal Act), in Explanation I below sub-section (1C), for the words and figures “sections 55, 63 and 68”, the words and figures “sections 55 and 68” shall be substituted.

4 of 1939.
3. In section 63 of the principal Act,—
   (a) in sub-section (11),—
      (i) in the opening paragraph,—
         (A) the words “in respect of such number of motor
         vehicles as the Central Government may specify
         in this behalf in relation to that State” shall be omitted;
         (B) for the word and figures “sections 54, 55”, the word
         and figures “sections 45, 54” shall be substituted;
      (ii) the proviso shall be omitted;
   (b) sub-sections (IIA), (IIB) and (IIC) shall be omitted.

4. In section 68 of the principal Act, in sub-section (2),—
   (a) in clause (ci),—
      (i) for the words “, public carriers’ permits or national per-
      mits”, the words “or public carriers’ permits” shall be substituted;
      (ii) the words and figures “or section 63” shall be omitted;
   (b) in clauses (cii) and (civ), for the words “, public carriers’
      permits or national permits”, the words “or public carriers’ permits”
      shall be substituted.

ZAIL SINGH,
President.

S. RAMAIAH,
Secy. to the Govt. of India.
EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

MISCELLANEOUS

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 19th April, 1986|Chaitra 29, 1908 (Saka)

THE SWADESHI COTTON MILLS COMPANY LIMITED

(Acquisition and Transfer of Undertakings)

ORDINANCE, 1986

No. 5 of 1986

Promulgated by the President in the Thirty-seventh Year of the Republic of India.

An Ordinance to provide for the acquisition and transfer of certain textile undertakings of the Swadeshi Cotton Mills Company Limited, with a view to securing the proper management of such undertakings so as to subserve the interests of the general public by ensuring the continued manufacture, production and distribution of different varieties of cloth and yarn and thereby to give effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of article 39 of the Constitution and for matters connected therewith or incidental thereto.

WHEREAS the Swadeshi Cotton Mills Company Limited has, through its six textile undertakings, been engaged in the manufacture and production of different varieties of cloth and yarn;

(1)
AND WHEREAS the management of the said textile undertakings was taken over by the Central Government under section 18AA of the Industries (Development and Regulation) Act, 1951;

AND WHEREAS large sums of money have been invested with a view to making the said textile undertakings viable;

AND WHEREAS further investment of very large sums of money is necessary for the purpose of securing the optimum utilisation of the available facilities for the manufacture, production and distribution of cloth and yarn by the said textile undertakings of the Company;

AND WHEREAS such investment is also necessary for securing the continued employment of the workmen employed in the said textile undertakings;

AND WHEREAS it is necessary in the public interest to acquire the said textile undertakings of the Swadeshi Cotton Mills Company Limited to ensure that the interests of the general public are served by the continuance by the said undertakings of the manufacture, production and distribution of different varieties of cloth and yarn which are vital to the needs of the country;

AND WHEREAS such acquisition is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of article 39 of the Constitution;

AND WHEREAS the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Swadeshi Cotton Mills Company Limited (Acquisition and Transfer of Undertakings) Ordinance, 1986.

(2) The provisions of sections 27 and 28 shall come into force at once, and the remaining provisions of this Ordinance shall be deemed to have come into force on the 1st day of April, 1985.

2. In this Ordinance, unless the context otherwise requires,—

(a) “appointed day” means the 1st day of April, 1985;

(b) “Commissioner” means the Commissioner of Payments appointed under section 15;

(c) “Company” means the Swadeshi Cotton Mills Company Limited, Kanpur, a company within the meaning of the Companies Act, 1956, and having its registered office at Swadeshi House, Civil Lines, Kanpur, in the State of Uttar Pradesh;
(d) "date of taking over" means the date on which the management of the textile undertakings of the Company was taken over by the Central Government by virtue of the order of the Government of India in the late Ministry of Industrial Development No. S.O. 265(E) dated the 13th April, 1978, made under clause (a) of sub-section (1) of section 18AA of the Industries (Development and Regulation) Act, 1951;

(e) "National Textile Corporation" means the National Textile Corporation Limited, a company formed and registered under the Companies Act, 1956;

(f) "notification" means a notification published in the Official Gazette;

(g) "Prescribed" means prescribed by rules made under this Ordinance;

(h) "specified date", in relation to any provision of this Ordinance, means such date as the Central Government may, by notification in the Official Gazette and in the newspapers circulating in the locality in which the registered office of the Company is situated, specify for the purposes of that provision and different dates may be specified for different provisions of this Ordinance;

(i) "Subsidiary Textile Corporation" means a textile corporation formed by the National Textile Corporation as its subsidiary;

(j) "textile undertakings" means the six textile undertakings of the Company specified below:

(i) the Swadeshi Cotton Mills, Kanpur;
(ii) the Swadeshi Cotton Mills, Pondicherry;
(iii) the Swadeshi Cotton Mills, Naini;
(iv) the Swadeshi Cotton Mills, Maunath Bhanjan;
(v) the Udaipur Cotton Mills, Udaipur;
(vi) the Rae Bareli Textile Mills, Rae Bareli;

(k) words and expressions used herein and not defined but defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in that Act.

CHAPTER II

ACQUISITION AND TRANSFER OF THE TEXTILE UNDERTAKINGS

3. (1) On the appointed day, every textile undertaking and the right, title and interest of the Company in relation to every such textile undertaking shall, by virtue of this Ordinance, stand transferred to, and shall vest in, the Central Government.

(2) Every such textile undertaking which stands vested in the Central Government by virtue of sub-section (1) shall, immediately after it has so vested, stand transferred to, and vested in, the National Textile Corporation.
4. (1) The textile undertakings referred to in section 3 shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash in hand, reserve funds, investments and book debts pertaining to the textile undertakings and all other right and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the Company in relation to the said undertakings, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

(2) All property as aforesaid which have vested in the Central Government under sub-section (1) of section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting it, and any attachment, injunction or decree or order of any court or other authority restricting the use of such property in any manner shall be deemed to have been withdrawn.

(3) Where any licence or other instrument had been granted at any time before the appointed day to the Company in relation to the textile undertakings by the Central Government or a State Government or any local authority, the National Textile Corporation shall, on and from such day, be deemed to be substituted in such licence or other instrument in place of the Company as if such licence or other instrument had been granted to the National Textile Corporation and that Corporation shall hold it for the remainder of the period for which the Company to which it was granted would have held it under the terms thereof.

(4) Every mortgagee of any property which has vested under this Ordinance in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lieu or other interest.

(5) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (2) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amounts specified in section 8 and section 9, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any property which has vested in the Central Government, under section 3 instituted or preferred by or against the Company is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the textile undertakings or of anything contained in this Ordinance, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the National Textile Corporation.
5. (1) Every liability of the Company in relation to the textile undertakings in respect of any period prior to the appointed day shall be the liability of the Company and shall be enforceable against it and not against the Central Government or the National Textile Corporation.

(2) For the removal of doubts, it is hereby declared that,—

(a) save as otherwise expressly provided in this section or in any other section of this Ordinance, no liability of the Company in relation to the textile undertakings, in respect of any period prior to the appointed day shall be enforceable against the Central Government or the National Textile Corporation;

(b) no award, decree or order of any court, tribunal or other authority in relation to any textile undertaking, passed after the appointed day, in respect of any matter, claim or dispute which arose before that day shall be enforceable against the Central Government or the National Textile Corporation;

(c) no liability incurred by the Company in relation to any textile undertaking before the appointed day, for the contravention of any provision of law for the time being in force, shall be enforceable against the Central Government or the National Textile Corporation.

6. (1) The National Textile Corporation may, by order in writing, transfer any of the textile undertakings or part thereof to a Subsidiary Textile Corporation and any such transfer shall be subject to such terms and conditions as may be specified in the said order.

(2) The Subsidiary Textile Corporation shall, on and from the date of such transfer, be deemed to be substituted in the licence or other instrument referred to in sub-section (3) of section 4 in place of the National Textile Corporation as if such licence or other instrument had been granted to the Subsidiary Textile Corporation, and shall hold such licence or other instrument for the remainder of the period for which the National Textile Corporation would have held such licence or other instrument.

(3) Save as otherwise expressly provided in this Ordinance, references in this Ordinance to the National Textile Corporation shall, in respect of any textile undertaking or part thereof which is transferred to a Subsidiary Textile Corporation, be construed as references to the Subsidiary Textile Corporation.

7. An amount equal to the value of the assets of the textile undertakings transferred to, and vested in the National Textile Corporation under sub-section (2) of section 3 shall be deemed to be the contribution made by the Central Government to the equity capital of the National Textile Corporation; and for the contribution so made, the National Textile Corporation shall issue (if necessary after amending its memorandum and articles of association) to the Central Government paid up shares, in its equity capital having a face value equal to the amount specified in section 8.
CHAPTER III
PAYMENT OF AMOUNTS

8. For the transfer to, and vesting in, the Central Government, under section 3, of the textile undertakings of the Company, and the right, title and interest of the Company in relation to such undertakings, there shall be given by the Central Government to the Company in cash and in the manner specified in Chapter VI, an amount of rupees twenty-four crores and thirty-two lakhs.

9. (1) For the deprivation of the Company of the management of its undertakings, there shall be given by the Central Government to the Company, in cash, an amount calculated at the rate of rupees ten thousand per annum for the period commencing on the date on which the management of the textile undertakings of the Company was taken over in pursuance of the order made by the Central Government under section 10AA of the Industries (Development and Regulation) Act, 1951 and ending on the appointed day.

(2) In consideration of the retrospective operation of the provisions of sections 3 and 4, there shall also be given by the Central Government to the Company, in cash, an amount calculated at the rate of rupees ten thousand per annum for the period commencing on the appointed day and ending on the date of promulgation of this Ordinance.

(3) The amount specified in section 8 and the amounts determined in accordance with the provisions of sub-sections (1) and (2) shall carry simple interest at the rate of four per cent., per annum for the period commencing on the appointed day and ending on the date on which payment of such amounts is made by the Central Government to the Commissioner.

(4) The amounts determined in accordance with the provisions of sub-sections (1), (2) and (3) shall be given by the Central Government to the Company in addition to the amount specified in section 8.

(5) For the removal of doubts, it is hereby declared that the liabilities of the Company in relation to the textile undertakings, which have vested in the Central Government under section 3 shall be discharged from the amount referred to in section 8 and also from the amounts determined under sub-sections (1), (2) and (3), in accordance with the rights and interests of the creditors of the Company.

CHAPTER IV
MANAGEMENT, ETC., OF THE TEXTILE UNDERTAKINGS

10. The National Textile Corporation or any person which that Corporation may, by order in writing, specify, shall be entitled to exercise the powers of general superintendence, direction, control and management of the affairs and business of a textile undertaking, the right, title and interest of the Company in relation to which have vested in that Corporation under sub-section (2) of section 3, and do all such things as the Company is authorised to exercise and do.
11. On the vesting of a textile undertaking in the National Textile Corporation, all persons in charge of the management of a textile undertaking immediately before such vesting shall be bound to deliver to the National Textile Corporation, all assets, books of account, registers or other documents in their custody relating to the textile undertaking.

CHAPTER V

PROVISIONS RELATING TO EMPLOYEES OF THE TEXTILE UNDERTAKINGS

12. (1) Every person who has been, immediately before the appointed day, employed by the Company in relation to a textile undertaking, shall become, on and from the appointed day, an employee of the National Textile Corporation and shall hold Office or service in that Corporation with the same rights and privileges as to pension, gratuity and other like matters as would have been admissible to him if the rights in relation to such textile undertaking had not been transferred to, and vested in, the National Textile Corporation, and shall continue to do so unless and until his employment in that Corporation is duly terminated or until his remuneration, terms and conditions of employment are duly altered by that Corporation.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed in a textile undertaking to the National Textile Corporation shall not entitle such officer or other employee to any compensation under this Ordinance or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

13. (1) Where the Company has established a provident fund, superannuation, welfare or other fund for the benefit of the persons employed in a textile undertaking, the moneys relatable to the officers and other employees whose services have been transferred by or under this Ordinance to the National Textile Corporation shall, out of the moneys standing, on the appointed day, to the credit of such provident fund; superannuation, welfare or other fund, stand transferred to, and vest in, the National Textile Corporation.

(2) The moneys which stand transferred under sub-section (1) to the National Textile Corporation, shall be dealt with by that Corporation in such manner as may be prescribed.

14. Where any textile undertaking or any part thereof is transferred under this Ordinance to a Subsidiary Textile Corporation, every person referred to in section 12 shall, on and from the date of such transfer, become an employee of the Subsidiary Textile Corporation, and the provisions of sections 12 and 13 shall apply to such employee of the
National Textile Corporation as if references in the said sections to the National Textile Corporation were references to the Subsidiary Textile Corporation.

CHAPTER VI
COMMISSIONER OF PAYMENTS

15. (1) The Central Government shall, for the purpose of disbursing the amounts payable under sections 8 and 9 to the Company, by notification, appoint a Commissioner of Payments.

(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Ordinance and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Ordinance and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

16. (1) The Central Government shall, within thirty days from the specified date, pay in cash to the Commissioner, for payment to the Company, an amount equal to the amount specified in section 8 and the amounts payable to the Company under section 9.

(2) A deposit account shall be opened by the Central Government in favour of the Commissioner in the Public Account of India, and every amount paid under this Ordinance to the Commissioner shall be deposited by him to the credit of the said deposit account, and the said deposit account shall be operated by the Commissioner.

(3) The interests accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall ensure to the benefit of the Company.

17. (1) The National Textile Corporation shall be entitled to receive, up to the specified date, to the exclusion of all other persons, any money due to a textile undertaking, realised after the appointed day, notwithstanding that the realisation pertain to a period prior to the appointed day.

(2) The National Textile Corporation may make a claim to the Commissioner with regard to every payment made by it as the authorised person in relation to a textile undertaking after the appointed day but before the date on which this Ordinance was promulgated for discharging any liability of the Company in relation to any period prior to the appointed day, and every such claim shall have priority, in accordance with the priorities attaching, under this Ordinance, to the matter in...
relation to which such liability has been discharged by the authorised person.

(3) Save as otherwise provided in this Ordinance, the liabilities in relation to a textile undertaking in respect of any period prior to the appointed day which have not been discharged by the authorised person shall be the liabilities of the Company.

Explanation.—For the purposes of this section, "authorised person" means any person or body of persons authorised to take over the management of any textile undertaking in pursuance of the order of the Government of India in the late Ministry of Industrial Development No. S.O. 265(E), dated the 15th April, 1946, issued under clause (4) of sub-section (1) of section 18AA of the Industries (Development and Regulation) Act, 1951.

18. Every person having a claim against the Company in relation to the textile undertakings with regard to any of the matters specified in the Schedule shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days, but not thereafter.

19. The claims arising out of matters specified in the Schedule shall have priorities in accordance with the following principles, namely:

(a) Category I shall have precedence over all other categories and Category II shall have precedence over Category III and so on;

(b) the claims specified in each of the categories, shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly; and

(c) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

20. (1) On receipt of the claims made under section 18, the Commissioner shall arrange the claims in the order of priorities specified in the Schedule and examine the same in accordance with such order.

(2) If on examination of the claims against the Company, the Commissioner is of the opinion that the amounts paid to him under this Ordinance for payment to such Company are not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine any claim in respect of such lower category.

21. (1) After examining the claims against the Company with reference to the priorities set out in the Schedule, the Commissioner shall fix a date on or before which every claimant shall file the proof of his claim.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of any daily newspaper in the English
language having circulation in the major part of the country and in one issue of any daily newspaper in such regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the period specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the period specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the Company an opportunity of rebutting the claim and after giving the claimant a reasonable opportunity of being heard, by order, in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he may hold his sittings and shall, for the purpose of making any investigation under this Ordinance, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

(a) the summoning and examining him on oath;
(b) the discovery or production of any document or other material object producible as evidence;
(c) the reception of evidence on affidavit;
(d) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code, and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

(7) A claimant who is dissatisfied with the decision of the Commissioner, may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated:

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, such appeal shall lie to the High Court of Allahabad and such appeal shall be heard and disposed of by not less than two judges of that High Court.

22. (1) After admitting a claim against the Company under this Ordinance, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such amount is due and on such payment, the liability of the Company in respect of such claim shall stand discharged.
(2) If, out of the moneys paid to him in relation to the textile undertakings, there is a balance left after meeting the liabilities as specified in the Schedule, the Commissioner shall disburse such balance to the Company.

23. Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be transferred by the Commissioner before his office is finally wound up, to the general revenue account of the Central Government, but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, and the order, if any, for payment of the claim being treated as an order for the refund of revenue.

CHAPTER VII
MISCELLANEOUS

24. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Ordinance, or in any decree or order of any court, tribunal or other authority.

25. (1) Where any liability of the Company in relation to any textile undertaking arising out of any item specified in Part I of the Schedule is not discharged fully by the Commissioner out of the amounts paid to him under this Ordinance, the Commissioner shall intimate in writing to the Central Government the extent of the liability which remains undischarged and that liability shall be assumed by the Central Government.

(2) The Central Government may, by order, direct the National Textile Corporation to take over the liability assumed by the Central Government under sub-section (1); and on receipt of such direction, it shall be the duty of that Corporation to discharge such liability.

26. Every contract, entered into by the Company in relation to any textile undertaking which has vested in the National Textile Corporation under sub-section (2) of section 3, for any service, sale or supply and in force immediately before the appointed day, shall, on and from the expiry of a period of one hundred and eighty days from the date of promulgation of this Ordinance, cease to have effect unless such contract is, before the expiry of that period, ratified in writing by the National Textile Corporation, and in ratifying such contract, the National Textile Corporation may make such alterations or modifications therein as it may think fit:

Provided that the National Textile Corporation shall not omit to ratify a contract and shall not make any alteration or modification in a contract—

(a) unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the textile undertaking concerned, and
(b) except after giving the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

27. Any person who,—

(a) having in his possession, custody or control any property forming part of any of the textile undertakings, wrongfully withholds such property from the National Textile Corporation; or

(b) wrongfully obtains possession of, or retains any property forming part of any of the textile undertakings; or

(c) wilfully withholds or fails to furnish to the National Textile Corporation or any person or body of persons specified by that Corporation, any document or inventory relating to any of the textile undertakings which may be in his possession, custody or control; or

(d) wilfully fails to deliver to the National Textile Corporation any inventory or property and assets forming part of any of the textile undertakings; or

(e) fails to deliver to the National Textile Corporation or any person or body of persons specified by that Corporation, any assets, books of account, registers or other documents in his possession, custody or control relating to any of the textile undertakings; or

(f) wrongfully removes or destroys any property forming part of any of the textile undertakings or prefers any claim under this Ordinance which he knows or has reason to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years, and with fine which may extend to one thousand rupees.

28. (1) Where an offence under this Ordinance has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that
offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

29. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of, or other person authorised by, that Government or the National Textile Corporation or any Subsidiary Textile Corporation or any officer of, or other person authorised by, such Corporation for anything which is in good faith done or intended to be done under this Ordinance.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers, or other person authorised by that Government, or the National Textile Corporation or any Subsidiary Textile Corporation or any officer or other person authorised by such Corporation for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Ordinance.

30. (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Ordinance, other than the powers conferred by this section and sections 31 and 32, may also be exercised by such person or persons as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

31. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:

(a) the time within which, and the manner in which, an intimation referred to in sub-section (4) of section 4 shall be given;

(b) the manner in which the monies in any provident fund or other fund, referred to in sub-section (2) of section 13 shall be dealt with;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any
modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

32. If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order, not inconsistent with the provisions of this Ordinance, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of promulgation of this Ordinance.

THE SCHEDULE

[See sections 18, 19, 20(1), 21(1), 22(2) and 25(1)]

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE COMPANY

PART I

Category I

Employees' dues on account of unpaid salaries, wages, provident fund, Employees' State Insurance contribution or premiums relating to the Life Insurance Corporation of India and any other amounts due to employees in respect of any period whether before or after the date of taking over of the textile undertakings.

Category II

Secured loans obtained from nationalised banks and public financial institutions, other than the National Textile Corporation, in respect of any period whether before or after the date of taking over of the textile undertakings.

Category III

Any credit availed of for trade or manufacturing purposes during the post-take over management period.

Category IV

Revenue, taxes, cesses, rate or other dues to the Central Government, State Government and local authorities for the period after the date of taking over of the textile undertakings.
Category V

Revenue, taxes, cesses, rate or other dues to the Central Government, State Government and local authorities or State Electricity Boards for the pre-take over management period.

Category VI

Any credit availed of for trade or manufacturing purposes during the pre-take over management period.

ZAIL SINGH,
President.

S. RAMAIAH,
Secy. to the Govt. of India.
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 14th May, 1986/Vaisakha 24, 1908 (Saka).

THE COMMISSIONS OF INQUIRY (AMENDMENT) ORDINANCE, 1986

No. 6 of 1986

Promulgated by the President in the Thirty-seventh Year of the Republic of India.

An Ordinance further to amend the Commissions of Inquiry Act, 1952.

WHEREAS the House of the People is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Commissions of Inquiry (Amendment) Ordinance, 1986.

(2) It shall come into force at once.

2. In section 3 of the Commissions of Inquiry Act, 1952, after sub-section (4), the following sub-sections shall be inserted, namely:

"(5) The provisions of sub-section (4) shall not apply if the appropriate Government is satisfied that in the interests of the sovereignty and integrity of India, the security of the State, friendly
relations with foreign States or in the public interest, it is not expedient to lay before the House of the People or, as the case may be, the Legislative Assembly of the State, the report, or any part thereof, of the Commission on the inquiry made by the Commission under sub-section (1), and issues a notification to that effect in the Official Gazette.

(6) Every notification issued under sub-section (5) shall be laid before the House of the People or, as the case may be, the Legislative Assembly of the State, if it is sitting as soon as may be after the issue of the notification, and if it is not sitting, within seven days of its re-assembly, and the appropriate Government shall seek the approval of the House of the People or, as the case may be, the Legislative Assembly of the State, to the notification by a resolution moved within a period of fifteen days beginning with the day on which the notification is so laid before the House of the People or, as the case may be, the Legislative Assembly of the State and if the House of the People or, as the case may be, the Legislative Assembly of the State makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be.

ZAIL SINGH,
President.

C. RAMAN MENON,
Additional Secy. to the Govt. of India.
MINISTRY OF LAW AND JUSTICE  
(Legislative Department)  

New Delhi, the 7th October, 1986/Asvina 15, 1908 (Saka)  

THE COAL MINES NATIONALISATION LAWS  
(AMENDMENT) ORDINANCE, 1986  

No. 7 of 1986  

Promulgated by the President in the Thirty-seventh Year of the Republic of India.  


WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;  

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—  

1. (1) This Ordinance may be called the Coal Mines Nationalisation Laws (Amendment) Ordinance, 1986.
(2) Save as otherwise expressly provided, the amendments to the Coking Coal Mines (Nationalisation) Act, 1972, shall be deemed to have come into force on the 1st day of May, 1972, and the amendments to the Coal Mines (Nationalisation) Act, 1973, shall be deemed to have come into force on the 1st day of May, 1973, and the remaining provisions of this Ordinance shall come into force at once.

2. (1) In section 4 of the Coking Coal Mines (Nationalisation) Act, 1972 (hereinafter referred to as the Coking Coal Act), sub-section (2) shall be omitted and shall be deemed to have been omitted with effect from the 29th day of April, 1976.

(2) The omission of sub-section (2) of section 4 of the Coking Coal Act by sub-section (1) of this section shall not affect the previous operation of the provisions of the said sub-section (2) or anything duly done or suffered thereunder.

3. In section 6 of the Coking Coal Act,—

(a) in sub-section (1),—

(i) for the words "as if a mining lease", the words "as if a fresh mining lease" shall be substituted;

(ii) for the words "being the entire period", the words "shall be the maximum period" shall be substituted;

(b) in sub-section (2), the words "on the same terms and conditions on which the lease was held on the appointed day," shall be omitted.

4. Section 10 of the Coking Coal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) For the removal of doubts, it is hereby declared that the amount specified in the fifth column of the First Schedule against any coking coal mine or group of coking coal mines specified in the second column of the said Schedule and required to be given by the Central Government to its owner under sub-section (1) shall be deemed to include, and deemed always to have included, the amounts required to be paid to such owner in respect of the stock of coal or other assets referred to in clause (j) of section 3 on the date immediately before the appointed day and no further amount shall be payable to the owner in respect of such coal or other assets.".

5. For section 17 of the Coking Coal Act, the following section shall be substituted, namely:—

"17. Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the
services of any officer or other employee employed in a coking coal mine or coke oven plant shall be liable to be transferred to any other coking coal mine or coke oven plant and such transfer shall not entitle such officer or other employee to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.”.

6. In section 21 of the Coking Coal Act, in sub-section (2), the words, figures and letters “and simple interest at the rate of four per cent. per annum on such amount shall also be payable by the Central Government to the said owner for the period commencing on the 1st day of May, 1972 and ending on the date of payment of such amount to the Commissioner” shall be inserted at the end.

7. In section 22 of the Coking Coal Act,—

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

“(4) The liabilities of the coking coal mine or the coke oven plant (not being liabilities arising out of advances made by the Central Government or Government company), which could not be discharged by the appointed day, may be discharged by the Central Government or the Government company up to the specified date out of the realisations effected before or after the appointed day or out of advances or borrowings made after the specified date and every payment so made shall be included in the statement of accounts as on the date immediately before the appointed day indicating therein the period in relation to which the payments were made and the payments so made shall not be called in question in any court:

Provided that the liabilities in relation to the period prior to the appointed day which have not been discharged on or before the specified date, shall be the liabilities of the owner of the coking coal mine or the coke oven plant, as the case may be.”;

(b) after sub-section (7), the following sub-section and Explanation shall be inserted, namely:

“(8) The statement of accounts audited under sub-section (6) shall, unless the contrary is proved, be conclusive proof in respect of every matter entered therein.

Explanation.—For the purposes of this section, “statement of accounts” means a statement in the form of receipts and payments, and does not include any statement that may be
8. For section 25 of the Coking Coal Act, the following section shall be substituted, namely:

'25. Any amount in excess of payments over receipts in the statement of accounts prepared under section 22 shall be deemed to be an amount advanced by the Central Government or the Custodian, as the case may be, for the management of a coking coal mine or coke oven plant during the period in which the management of such mine or plant remained vested in the Central Government and the Central Government may make a claim to the Commissioner for such excess payment and such claim shall have priority over the claims of all other unsecured creditors of the coking coal mine or coke oven plant.'

Explanation.—In this section, “Custodian” means the Custodian appointed under the Coking Coal Mines (Emergency Provisions) Act, 1971.'

9. In section 26 of the Coking Coal Act, after sub-section (2) and before the Explanation, the following sub-section shall be inserted, namely:

“(3) Where the amount specified in the fifth column of the First Schedule is relatable to a group of coking coal mines, the Commissioner shall apportion such amount among the owners of such group, and in making such apportionment, the Commissioner shall have regard to the highest annual production in the coking coal mine during the three years immediately preceding the appointed day.”

10. (1) In section 3 of the Coal Mines (Nationalisation) Act, 1973 26 of 1973 (hereinafter referred to as the Coal Mines Act),—

(a) sub-section (2) shall be omitted and shall be deemed to have been omitted with effect from the 29th day of April, 1976;

(b) in sub-section (4), the words, brackets and figures “notwithstanding anything contained in sub-section (2), or in the proviso to sub-section (2) of section 3 of the Coal Mines (Taking Over of Management) Act, 1973,” shall be omitted;

(c) after sub-section (4), the following sub-section shall be inserted, namely:

“(5) If, after the appointed day, the Central Government is satisfied, whether from any information received by it or otherwise, that there has been any error, omission or misdescription in relation to the particulars of coal mine included in the Schedule or the name and address of the owner of any such coal mine
it may, by notification, correct such error, omission or misdescription and on the issue of such notification, the relevant entries in the Schedule shall be, and shall be deemed to have always been, corrected accordingly:

Provided that no such correction in relation to the ownership of a coal mine shall be made where such ownership is in dispute.

(2) The omission of sub-section (2) of section 3 of the Coal Mines Act by clause (a) of sub-section (1) of this section shall not affect the previous operation of the provisions of the said sub-section (2) or anything duly done or suffered thereunder.

11. In section 4 of the Coal Mines Act,—

(a) in sub-section (1),—

(i) for the words “as if a mining lease”, the words “as if a fresh mining lease” shall be substituted;

(ii) for the words “the entire period”, the words “the maximum period” shall be substituted;

(b) in sub-section (2), the words “on the same terms and conditions on which the lease was held, immediately before the appointed day,” shall be omitted.

12. Section 8 of the Coal Mines Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) For the removal of doubts, it is hereby declared that the amount specified in the fifth column of the Schedule against any coal mine or group of coal mines specified in the second column of the Schedule and required to be given by the Central Government to its owner under sub-section (1) shall be deemed to include, and deemed always to have included, any amount required to be paid to such owner in respect of the stock of coal or other assets referred to in clause (h) of section 2 on the date immediately before the appointed day and no further amount shall be payable to the owner in respect of such coal or other assets.”.

13. For section 14 of the Coal Mines Act, the following section shall be substituted, namely:—

"14. Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the services of any officer or other employee employed in a coal mine shall be liable to be transferred to any other coal mine and such transfer shall not entitle such officer or other employee to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.".
14. In section 18 of the Coal Mines Act, in sub-section (2), the figures and letters "and simple interest at the rate of four per cent on such amount shall also be payable by the Central Government to the said owner for the period commencing on the 1st day of May and ending on the date of payment of such amount to the Commissioner shall be inserted at the end.

15. In section 19 of the Coal Mines Act,—

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

"(4) The liabilities of the coal mine (not being liabilities arising out of advances made by the Central Government or Government company), which could not be discharged by the Central Government or the Government company up to the specified date out of the provisional account or advances or borrowings made after the specified date and the payment so made shall be included in the statement of accounts as on the date immediately before the appointed day indicating therein the period in relation to which the payments were made and the payments made shall not be called in question in a court:

Provided that the liabilities in relation to the period prior to the appointed day, which have not been discharged on or before the specified date, shall be the liabilities of the owner of the coal mine;"

(b) after sub-section (7), the following sub-section and Explanation shall be inserted, namely:

"(8) The statement of accounts audited under sub-section (6) shall be conclusive proof in respect of every matter entered therein unless the contrary is proved.

Explanation.—For the purposes of this section, "statement of accounts" means a statement in the form of receipts and payments, and does not include any statement that may be prepared as a result of the closing and balancing of the books for the preparation of the profit and loss account and balance sheet or any statement prepared in accordance with normal commercial practice."

16. For section 25 of the Coal Mines Act, the following section shall be substituted, namely:

"25. Any amount in excess of payments over receipts in the statement of accounts prepared under section 19 shall be deemed to be an amount advanced by the Central Government or the Custodian, as the case may be, for the management of a coal mine during the period in which the management of such coal mine remained vested in the Central Government and the Central Government may make a claim to the Commissioner for such excess payment and such claim shall have priority over the claims of all other unsecured creditors."
of the coal mine, including those referred to in sub-section (2) of section 22.

Explanation.—In this section, "Custodian" means the Custodian appointed under the Coal Mines (Taking Over of Management) Act, 1973.

17. In section 26 of the Coal Mines Act, after sub-section (5) and before the Explanation, the following sub-section shall be inserted, namely:

"(6) Where the amount specified in the fifth column of the Schedule is relatable to a group of coal mines, the Commissioner shall have power to apportion such amount among the owners of such group and in making such apportionment, the Commissioner shall have regard to the highest annual production in the coal mine during the three years immediately preceding the appointed day."

18. Notwithstanding any judgment, decree, order or directions of any court,—

(a) every amount paid to the owner of every coking coal mine or group of coking coal mines (hereafter in this section referred to as the owner) under section 10 of the Coking Coal Act or under section 8 of the Coal Mines Act, shall be deemed to include, and deemed always to have included, the cost of stock or other assets referred to in clause (j) of section 3 of the Coking Coal Act or clause (h) of section 2 of the Coal Mines Act, on the date immediately before the appointed day as if the provisions of section 10 of the Coking Coal Act or, as the case may be, section 8 of the Coal Mines Act, as amended by this Ordinance had been in force at all material times, and no such payment shall be called in question in any court on the ground that it had not included the cost of such stock or other assets;

(b) every statement of accounts or supplementary statement of accounts prepared by the Central Government or the Government company under section 22 of the Coking Coal Act or under section 19 of the Coal Mines Act shall be deemed to have been validly prepared as if the provisions of section 22 of the Coking Coal Act or, as the case may be, section 19 of the Coal Mines Act, as amended by this Ordinance had been in force at all material times, and no such statement of accounts or supplementary statement of accounts shall be called in question in any court on the ground that it had not been prepared in accordance with normal commercial practice or that any item has or has not been included in the statement,

and accordingly, no suit or other legal proceeding shall be maintained or continued in any court,—

(i) for the recovery of any sum on the ground that the amount paid to the owner under section 10 of the Coking Coal Act or under section 8 of the Coal Mines Act does not include the cost of stock or other assets referred to in clause (a); or

(ii) for the recovery of any sum as being the excess of realisations over expenditure on the ground that the statement of accounts
or supplementary statement of accounts, required to be prepared under section 22 of the Coking Coal Act or, as the case may be, section 19 of the Coal Mines Act had not been prepared in accordance with the normal commercial practice or that any item has or has not been included.

Explanation.—In this section,—

(1) "appointed day" means,—
   (a) in relation to the Coking Coal Act, the 1st day of May, 1972; and
   (b) in relation to the Coal Mines Act, the 1st day of May, 1973;

(2) "realisations" and "liabilities" shall have the same meanings as in section 22 of the Coking Coal Act or section 19 of the Coal Mines Act, as the case may be.

ZAIL SINGH,
President.

S. RAMAIAH,
Secy. to the Govt. of India.
EXTRAORDINARY

PUBLISHED BY AUTHORITY

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 30th December, 1986|Pausa 9, 1908 (Saka)

THE STATE OF MIZORAM (AMENDMENT) ORDINANCE, 1986

No. 8 of 1986

PROMULGATED BY THE PRESIDENT IN THE THIRTY-SEVENTH YEAR OF THE REPUBLIC OF INDIA.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the State of Mizoram (Amendment) Ordinance, 1986.

(2) It shall come into force at once.

2. After section 12 of the State of Mizoram Act, 1986, the following section shall be inserted, namely:—

"12A. (1) For the purpose of constituting, with effect from the appointed day, the Legislative Assembly of the State of Mizoram,
a general election shall be held, as soon as may be after the delimitation of all the Assembly constituencies under section 11.

(2) For the purposes of sub-section (1), the Administrator of the existing Union territory of Mizoram shall, by one or more notifications published in the Official Gazette of the existing Union territory of Mizoram, call upon all the said assembly constituencies to elect members in accordance with the provisions of the Representation of the People Act, 1951, and of the rules and orders made or issued thereunder as applicable under sub-section (3).

(3) The Representation of the People Act, 1950, the Representation of the People Act, 1951, the rules and orders made or issued under the said Acts and all other laws for the time being in force relating to elections shall apply with necessary modifications (including modifications for construing references therein to a State, State Government and Governor as including references to the existing Union territory of Mizoram, the Government of that Union territory and the Administrator of that Union territory, respectively) to, and in relation to, the general election referred to in sub-section (1)."

ZAIL SINGH,
President.

C. RAMAN MENON,
Additional Secy. to the Govt. of India.
Repealed by Act 8 of 1987, Sec 3.

PART II—Section 1

PUBLISHED BY AUTHORITY

ZAIL SINGH,
President.

MAN MENON,
Govt. of India.

MINISTRY OF LAW AND JUSTICE

New Delhi, the 5th February, 1987/Magha 16, 1908 (Saka)

THE DELHI MUNICIPAL CORPORATION (AMENDMENT) ORDINANCE, 1987

No. 1 of 1987

Promulgated by the President in the Thirty-eighth Year of the Republic of India.

An Ordinance further to amend the Delhi Municipal Corporation Act, 1957.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Delhi Municipal Corporation (Amendment) Ordinance, 1987.

(2) It shall come into force at once.

(1)
a general election shall be held, as soon as may be after the delimitation of all the Assembly constituencies under section 11.

(2) For the purposes of sub-section (1), the Administrator of existing Union territory of Mizoram shall, by one or more notifications published in the Official Gazette of the existing Union territory of Mizoram, call upon all the said Assembly constituencies to elect members in accordance with the provisions of the Representation of the People Act, 1951, and of the rules and orders made or iss by the Administrator under sub-section (3).

(3) The Representation of the People Act, 1950, the Representation of the People Act, 1951, the rules and orders made or issued under the said Acts and all other laws for the time being in force relating to elections shall apply with necessary modifications including modifications for construing references therein to a State Government and Governor as including references to existing Union territory of Mizoram, the Government of that Union territory and the Administrator of that Union territory, respectively, and in relation to, the general election referred to in section (1)."

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C. RAMAN MEN
Additional Secy. to the Govt. of In
2. In section 90 of the Delhi Municipal Corporation Act, 1957, in subsection (8), for clauses (i) and (ii), the following clauses shall be substituted namely:

(i) "category A post" means any post which, having regard to its scale of pay or emoluments, would, if such post had been in the Central Government, be classified as a Group A post under the Central Government in accordance with the orders issued by that Government from time to time;

(ii) "category B post" means any post which, having regard to its scale of pay or emoluments, would, if such post had been in the Central Government, be classified as a Group B post under the Central Government in accordance with the orders issued by that Government from time to time;*

ZAIL SINGH,
President.

S. RAMAIAH,
Secy. to the Govt. of India.
EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 23rd May, 1987/Jyaistha 2, 1909 (Saka)

THE TERRORIST AND DISRUPTIVE ACTIVITIES
(PREVENTION) ORDINANCE, 1987

No. 2 of 1987

Promulgated by the President in the Thirty-eighth Year of the
Republic of India.

An Ordinance to make special provisions for the prevention of, and
for coping with, terrorist and disruptive activities and for
matters connected therewith or incidental thereto.

Whereas the Council of States is not in session and the President is
satisfied that circumstances exist which render it necessary for him to
take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1)
of article 123 of the Constitution, the President is pleased to promulgate
the following Ordinance:

PART I

PRELIMINARY

1. (i) This Ordinance may be called the Terrorist and Disruptive Activities (Prevention) Ordinance, 1987.

(ii) It extends to the whole of India, and it applies also—

(a) to citizens of India outside India;

(b) to persons in the service of the Government, wherever they may be; and

(c) to persons on ships and aircraft registered in India, wherever they may be.

(iii) It shall come into force on the 24th day of May, 1987.

2. (i) In this Ordinance, unless the context otherwise requires,—

(a) “abet”, with its grammatical variations and cognate expressions, includes,—

(i) the communication or association with any person or class of persons who is engaged in assisting in any manner terrorists or disruptionists;

(ii) the passing on, or publication of, without any lawful authority, any information likely to assist the terrorists or disruptionists, and the passing on, or publication of, or distribution of any document or matter obtained from terrorists or disruptionists;

(iii) the rendering of any assistance, whether financial or otherwise, to terrorists or disruptionists;

(b) “Code” means the Code of Criminal Procedure, 1973;

(c) “Designated Court” means a Designated Court constituted under section 8;

(d) “disruptive activity” has the meaning assigned to it in section 4, and the expression “disruptionist” shall be construed accordingly;

(e) “High Court” means the High Court of the State in which a judge or an additional judge of a Designated Court was working immediately before his appointment as such judge or additional judge;

(f) “Public Prosecutor” means a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor appointed under section 12, and includes any person acting under the directions of the Public Prosecutor;

(g) “terrorist act” has the meaning assigned to it in sub-section (1) of section 3, and the expression “terrorist” shall be construed accordingly;
PART I

PUNISHMENTS FOR, AND MEASURES FOR COPING WITH, TERRORIST AND DISRUPTIVE ACTIVITIES

3. (1) Whoever with intent to overawe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people does any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or fire-arms or other lethal weapons or poisons or noxious gases or other chemicals or by any other substances (whether biological or otherwise) of a hazardous nature in such a manner as to cause, or as is likely to cause, death or, or injuries to, any person or persons or loss of, or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community, or detains any person and threatens to kill or injure such person in order to compel the Government or any other person to do or abstains from doing any act, commits a terrorist act.

(2) Whoever commits a terrorist act, shall,—

(i) if such act has resulted in the death of any person, be punishable with death or imprisonment for life and shall also be liable to fine;

(ii) in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to term of life and shall also be liable to fine.

(3) Whoever, conspires or attempts to commit, or advocates, abets, advises or incites or knowingly facilitates the commission of, a terrorist act or any act preparatory to a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to term of life and shall also be liable to fine.

(4) Whoever harbours or conceals, or attempts to harbour or conceal, any terrorist shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to term of life and shall also be liable to fine.

4. (1) Whoever commits or conspires or attempts to commit or abets, advocates, advises, or knowingly facilitates the commission of, any disruptive activity or any act preparatory to a disruptive activity shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to term of life and shall also be liable to fine.
(2) For the purposes of sub-section (1), "disruptive activity" means any action taken, whether by act or by speech or through any other medium or in any other manner whatsoever,—

(i) which questions, disrupts or is intended to disrupt, whether directly or indirectly, the sovereignty and territorial integrity of India; or

(ii) which is intended to bring about or support any claim for the cession of any part of India or the secession of any part of India from the Union.

Explanation.—For the purposes of this sub-section,—

(a) "cession" includes the admission of any claim of foreign country to any part of India, and

(b) "secession" includes the assertion of any claim to determine whether a part of India will remain within the Union.

(3) Without prejudice to the generality of the provisions of section (2), it is hereby declared that any action taken, whether by act or by speech or through any other medium or in any other manner whatsoever, which—

(a) advocates, advises, suggests or incites; or

(b) predicts, prophesies or pronounces or otherwise expresses in such manner as to incite, advise, suggest or prompt,

the killing or the destruction of any persons bound by oath under Constitution to uphold the sovereignty and integrity of India or public servants shall be deemed to be a disruptive activity within the meaning of this section.

(4) Whoever harbours or conceals, or attempts to harbour or conceal, any disruptionist shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to a term of life and shall also be liable to fine.

5. (1) If any person with intent to aid any terrorist or disruptionist contravenes any provision of, or any rule made under, the Arma, 1959, the Explosives Act, 1884, the Explosive Substances Act, 1901, the inflammable Substances Act, 1952, he shall, notwithstanding anything contained in any of the aforesaid Acts or the rules made thereunder, be punishable with imprisonment for a term which shall not be less than five years but which may extend to a term of life and shall also be liable to fine.

(2) For the purposes of this section, any person who attempts to contravene or abets, or attempts to abet, or does any act preparatory to the contravention of any provision of any law, rule or order, shall be deemed to have contravened that provision, and the provisions of sub-section (1) shall, in relation to such person, have effect subject to modification that the reference to "term of life" shall be construed as a reference to "term of ten years".
activity” means

6. (1) Notwithstanding anything contained in the Code or in any other provision of this Ordinance, the Central Government may, if it considers it necessary or expedient so to do,—

(a) for the prevention of, and for coping with, any offence under section 3 or section 4; or

(b) for any case or class or group of cases under section 3 or section 4.

in any State or part thereof, confer, by notification in the Official Gazette, on any officer of the Central Government, powers exercisable by a police officer under the Code in such State or part thereof or, as the case may be, for such case or class or group of cases and in particular, the powers of arrest, investigation and prosecution of persons before any court.

(2) All officers of police and all officers of Government are hereby required and empowered to assist the officer of the Central Government, referred to in sub-section (1), in the execution of the provisions of this Ordinance or any rule or order made thereunder.

(3) The provisions of the Code shall, so far as may be and subject to such modifications made in this Ordinance, apply to the exercise of the powers by an officer under sub-section (1).

7. (1) Where a person has been convicted of any offence punishable under this Ordinance or any rule made thereunder, the Designated Court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the accused and specified in the order, shall stand forfeited to the Government free from all encumbrances.

(2) Where any person is accused of any offence under this Ordinance or any rule made thereunder, it shall be open to the Designated Court trying him to pass an order that all or any properties, movable or immovable or both belonging to him, shall, during the period of such trial, be attached, and where such trial ends in conviction, the properties so attached shall stand forfeited to the Government free from all encumbrances.

(3) (a) If upon a report in writing made by a police officer or an officer referred to in sub-section (1) of section 6, any Designated Court has reason to believe that any person, who has committed an offence punishable under this Ordinance or any rule made thereunder, has absconded or is concealing himself so that he may not be apprehended, such court may, notwithstanding anything contained in section 82 of the Code, publish a written proclamation requiring him to appear at a specified place and at a specified time not less than fifteen days but not more than thirty days from the date of publication of such proclamation.

(b) The Designated Court issuing a proclamation under clause (a) may, at any time, order the attachment of any property, movable or immovable or both, belonging to the proclaimed person, and thereupon the provisions of sections 83 to 85 of the Code shall apply to such attachment as if such attachment were made under that Code.
(c) If, within six months from the date of the attachment, person whose property is, or has been, under the disposal of Government under sub-section (2) of section 85 of the Code, apprehended voluntarily or is apprehended and brought before the Designated Court by whose order the property was attached, or the Court which such Court is subordinate, and proves to the satisfaction such Court that he did not abscond or conceal himself for the purpose of avoiding apprehension and that he had not received such notice of the proclamation as to enable him to attend within the time specified therein, such property or, if the same has been sold, the proceeds of the sale and the residue of the property, shall, after satisfying therefrom all costs incurred in consequence of the attachment be delivered to him.

(4) Where any shares in a company stand forfeited to the Government under this section, then, the company shall, notwithstanding anything contained in the Companies Act, 1956, or the articles of association of the company, forthwith register the Government as the transferee of such shares.

PART III
DESIGNATED COURTS

8. (1) The Central Government or a State Government may, by notification in the Official Gazette, constitute one or more Designated Courts for such area or areas, or for such case or class or group of cases, as may be specified in the notification.

(2) Where a notification constituting a Designated Court for any area or areas or for any case or class or group of cases is issued by the Central Government under sub-section (1), and a notification constituting a Designated Court for the same area or areas or for the same case or class or group of cases has also been issued by a State Government under that sub-section, the Designated Court constituted by the Central Government whether the notification constituting such court is issued before or after the issue of the notification constituting the Designated Court by the State Government, shall have, and the Designated Court constituted by the State Government shall not have, jurisdiction to try any offence committed in that area or areas or, as the case may be, the case or class or group of cases, and all cases pending before any Designated Court constituted by the State Government shall stand transferred to the Designated Court constituted by the Central Government.

(3) Where any question arises as to the jurisdiction of any Designated Court, it shall be referred to the Central Government whose decision thereon shall be final.

(4) A Designated Court shall be presided over by a judge to be appointed by the Central Government or, as the case may be, the State Government, with the concurrence of the Chief Justice of the High Court.

(5) The Central Government or, as the case may be, the State Government may also appoint, with the concurrence of the Chief Justice of the High Court, additional judges to exercise jurisdiction in a Designated Court.
(6) A person shall not be qualified for appointment as a judge or an additional judge of a Designated Court unless he is, immediately before such appointment, a sessions judge or an additional sessions judge in any State.

(7) For the removal of doubts, it is hereby provided that the attainment by a person appointed as a judge or an additional judge of a Designated Court of the age of superannuation under the rules applicable to him in the service to which he belongs, shall not affect his continuance as such judge or additional judge.

(8) Where any additional judge or additional judges is or are appointed in a Designated Court, the judge of the Designated Court may, from time to time, by general or special order, in writing, provide for the distribution of business of the Designated Court among himself and the additional judge or additional judges and also for the disposal of urgent business in the event of his absence or the absence of any additional judge.

9. A Designated Court may, on its own motion or on an application made by the Public Prosecutor, and if it considers it expedient or desirable so to do, may sit for any of its proceedings at any place, other than its ordinary place of sitting:

Provided that nothing in this section shall be construed to change the place of sitting of a Designated Court constituted by a State Government to any place outside that State.

10. (1) Notwithstanding anything contained in the Code, every offence punishable under any provision of this Ordinance or any rule made thereunder shall be triable only by the Designated Court within whose local jurisdiction it was committed or, as the case may be, by the Designated Court constituted for trying such offence under sub-section (1) of section 8.

(2) If, having regard to the exigencies of the situation prevailing in a State, the Central Government is of the opinion that—

(a) the situation prevailing in such State is not conducive to a fair, impartial or speedy trial, or

(b) it is not likely to be feasible without occasioning the breach of peace or grave risk to the safety of the accused, the witnesses, the Public Prosecutor and the judge of the Designated Court or any of them, or

(c) it is not otherwise in the interests of justice,

it may, with the concurrence of the Chief Justice of India (such concurrence to be obtained on a motion moved in that behalf by the Attorney-General), transfer any case pending before a Designated Court in that State to any other Designated Court within that State or in any other State.

(3) Where the whole or any part of the area within the local limits of the jurisdiction of a Designated Court has been declared to be, or forms part of, any area which has been declared to be a disturbed area under
any enactment for the time being in force making provision for the suppression of disorder and restoration and maintenance of public order, and the Central Government is of opinion that the situation prevailing in the State is not conducive to fair, impartial or speedy trial within the State, of offences under this Ordinance or the rules made thereunder which such Designated Court is competent to try, the Central Government may with the concurrence of the Chief Justice of India, specify, by notification in the Official Gazette, in relation to such court (hereafter in this sub-section referred to as the local court) a Designated Court outside the State (hereafter in this section referred to as the specified court), and thereupon—

(a) it shall not be competent, at any time during the period of operation of such notification, for such local court to exercise any jurisdiction in respect of, or try, any offence under this Ordinance or the rules thereunder;

(b) the jurisdiction which would have been, but for the issue of such notification, exercisable by such local court in respect of such offences committed during the period of operation of such notification shall be exercisable by the specified court;

(c) all cases relating to such offences pending immediately before the date of issue of such notification before such local court shall stand transferred on that date to the specified court;

(d) all cases taken cognizance of by, or transferred to, the specified court under clause (b) or clause (c) shall be dealt with and tried in accordance with this Ordinance (whether during the period of operation of such notification or thereafter) as if such offences had been committed within the local limits of the jurisdiction of the specified court or, as the case may be, transferred for trial to it under sub-section (2).

Explanation 1.—A notification issued under this sub-section in relation to any local court shall cease to operate on the date on which the whole or, as the case may be, the aforementioned part of the area within the local limits of its jurisdiction, ceases to be a disturbed area.

Explanation 2.—For the purposes of this section “Attorney-General” means the Attorney-General of India or, in his absence, the Solicitor-General of India or, in the absence of both, one of the Additional Solicitor-Generals of India.

11. (1) When trying any offence, a Designated Court may also try any other offence with which the accused may, under the Code, be charged at the same trial if the offence is connected with such other offence.

(2) If, in the course of any trial under this Ordinance of any offence, it is found that the accused person has committed any other offence under this Ordinance or any rule thereunder or under any other law, the Designated Court may convict such person of such other offence and pass any sentence authorised by this Ordinance or such rule or, as the case may be, such other law, for the punishment thereof.
12. (1) For every Designated Court, the Central Government or, as the case may be, the State Government, shall appoint a person to be the Public Prosecutor and may appoint one or more persons to be the Additional Public Prosecutor or Additional Public Prosecutors:

Provided that the Central Government or, as the case may be, the State Government, may also appoint for any case or class or group of cases a Special Public Prosecutor.

(2) A person shall not be qualified to be appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an Advocate for not less than seven years or has held any post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

(3) Every person appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of Clause (u) of section 2 of the Code, and the provisions of the Code shall have effect accordingly.

13. (1) A Designated Court may take cognizance of any offence, without the accused being committed to it for trial, upon receiving a complaint of facts which constitute such offence or upon a police report of such facts.

(2) Subject to the other provisions of this Ordinance, a Designated Court shall, for the purpose of trial of any offence, have all the powers of a Court of Session and shall try such offence as if it were a Court of Session so far as may be in accordance with the procedure prescribed in the Code for the trial before a Court of Session.

(3) Subject to the other provisions of this Ordinance, every case transferred to a Designated Court under sub-section (2) of section 10 shall be dealt with as if such case had been transferred under section 406 of the Code to such Designated Court.

(4) Notwithstanding anything contained in the Code, a Designated Court may, if it thinks fit and for reasons to be recorded by it, proceed with the trial in the absence of the accused or his pleader and record the evidence of any witness, subject to the right of the accused to recall the witness for cross-examination.

14. (1) Notwithstanding anything contained in the Code, all proceedings before a Designated Court shall be conducted in camera:

Provided that where the Public Prosecutor so applies, any proceedings or part thereof may be held in open court.

(2) A Designated Court may, on an application made by a witness in any proceedings before it or by the Public Prosecutor in relation to such witness or on its own motion, take such measures as it deems fit for keeping the identity and address of any witness secret.
(3) In particular and without prejudice to the generality of the provisions of sub-section (2), the measures which a Designated Court may take under that sub-section may include,—

(a) the holding of the proceedings at a place to be decided by the Designated Court;

(b) the avoiding of the mention of the names and addresses of the witnesses in its orders or judgements or in any records of the case accessible to public;

(c) the issuing of any directions for securing that the identity and addresses of the witnesses are not disclosed;

(d) that it is in the public interest to order that all or any of the proceedings pending before such a court shall not be published in any manner.

(4) Any person who contravenes any direction issued under sub-section (3) shall be punishable with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees.

15. The trial under this Ordinance of any offence by a Designated Court shall have precedence over the trial of any other case against the accused in any other court (not being a Designated Court) and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall remain in abeyance.

16. Where, after taking cognizance of any offence, a Designated Court is of opinion that the offence is not triable by it, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for the trial of such offence to any court having jurisdiction under the Code and the court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

17. (1) Notwithstanding anything contained in the Code, an appeal shall lie as a matter of right from any judgment, sentence or order, not being an interlocutory order, of a Designated Court to the Supreme Court both on facts and on law.

(2) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order including an interlocutory order of a Designated Court.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.
PART IV

MISCELLANEOUS

18. (1) Notwithstanding anything contained in the Code or any other law, every offence punishable under this Ordinance or any rule made thereunder shall be deemed to be a cognizable offence within the meaning of clause (c) of section 2 of the Code, and “cognizable case” as defined in that clause shall be construed accordingly.

(2) Section 21 of the Code shall, in relation to a case involving an offence punishable under this Ordinance or any rule made thereunder, apply subject to the modification that the reference to “the State Government” therein shall be construed as a reference to “the Central Government or the State Government”.

(3) Section 164 of the Code shall apply in relation to a case involving an offence punishable under this Ordinance or any rule made thereunder, subject to the modification that the reference in sub-section (1) thereof to “Metropolitan Magistrate or Judicial Magistrate” shall be construed as a reference to “Metropolitan Magistrate, Judicial Magistrate, Executive Magistrate or Special Executive Magistrate”.

(4) Section 167 of the Code shall apply in relation to a case involving an offence punishable under this Ordinance or any rule made thereunder subject to the modifications that—

(a) the reference in sub-section (1) thereof to “Judicial Magistrate” shall be construed as a reference to “Judicial Magistrate or Executive Magistrate or Special Executive Magistrate”;

(b) the reference in sub-section (2) thereof to “fifteen days”, “ninety days” and “sixty days”, wherever they occur, shall be construed as references to “sixty days”, “one year” and “one year”, respectively; and

(c) sub-section (2A) thereof shall be deemed to have been omitted.

(5) Section 268 shall apply in relation to a case involving an offence punishable under this Ordinance or any rule made thereunder subject to the modifications that—

(a) the reference in sub-section (1) thereof—

(i) to “the State Government” shall be construed as a reference to “the Central Government or the State Government”;

(ii) to “order of the State Government” shall be construed as a reference to “order of the Central Government or the State Government, as the case may be”; and

(b) the reference in sub-section (2) thereof, to “State Government” shall be construed as a reference to “Central Government or the State Government, as the case may be”.

(6) Sections 366 to 371 and section 392 of the Code shall apply in relation to a case involving an offence triable by a Designated Court.
subject to the modifications that the references to “Court of Session” and “High Court”, wherever occurring therein, shall be construed as references to “Designated Court” and “Supreme Court”, respectively.

(7) Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence punishable under this Ordinance or any rule made thereunder.

(8) Notwithstanding anything contained in the Code, no person accused of an offence punishable under this Ordinance or any rule made thereunder shall, if in custody, be released on bail or on his own bond unless—

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(b) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(9) The limitations on granting of bail specified in sub-section (8) are in addition to the limitations under the Code or any other law for the time being in force on granting of bail.

19. (1) Nothing in this Ordinance shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under any law relating to the naval, military or air forces or other armed forces of the Union.

(2) For the removal of doubts, it is hereby declared that for the purposes of any such law as is referred to in sub-section (1), a Designated Court shall be deemed to be a court of ordinary criminal justice.

20. Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Ordinance, a court shall, within the meaning of the Indian Evidence Act, 1872, presume that such order was so made by that authority.

21. The provisions of this Ordinance or any rule made thereunder or any order made under any such rule shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Ordinance or in any instrument having effect by virtue of any enactment other than this Ordinance.

22. No suit, prosecution or other legal proceeding shall lie against the Central Government or a State Government or any officer or authority of the Central Government or State Government or any other authority to whom powers have been delegated under this Ordinance for anything which is in good faith done or purported to be done in pursuance of this Ordinance or any rules made thereunder or any order issued under any such rule.
23. The Supreme Court may, by notification in the Official Gazette, make such rules, if any, as it may deem necessary for carrying out the provisions of this Ordinance relating to Designated Courts.

24. Without prejudice to the powers of the Supreme Court to make rules under section 23, the Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

25. Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modifications in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

ZAIL SINGH,
President.

S. RAMAIAH,
Secy. to the Govt. of India.
THE NATIONAL SECURITY (AMENDMENT) ORDINANCE, 1987

No. 3 of 1987

Promulgated by the President in the Thirty-eighth Year of the Republic of India.

An Ordinance further to amend the National Security Act, 1980, in its application to the State of Punjab and the Union territory of Chandigarh.

Whereas the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the National Security (Amendment) Ordinance, 1987.

(2) It shall come into force at once.
2. The National Security Act, 1980 (hereinafter referred to as the principal Act) shall, in its application to the State of Punjab and the Union territory of Chandigarh, have effect subject to the amendments specified in section 3.

3. In the principal Act, after section 14, the following section shall be inserted, namely:

14A. (1) Notwithstanding anything contained in the foregoing provisions of this Act, or in any judgment, decree or order of any court or other authority, any person in respect of whom an order of detention has been made under this Act at any time before the 8th day of June, 1988 may be detained without obtaining the opinion of the Advisory Board for a period longer than three months, but not exceeding six months, from the date of his detention where such person had been detained with a view to preventing him from acting, in any disturbed area, in any manner prejudicial to—

(a) the defence of India; or
(b) the security of India; or
(c) the security of the State; or
(d) the maintenance of public order; or
(e) the maintenance of supplies and services essential to the community.

Explanation 1.—The provisions of the Explanation to sub-section (2) of section 3 shall apply for the purposes of this sub-section as they apply for the purposes of that sub-section.

Explanation 2.—In this sub-section, “disturbed area” means any area which is for the time being declared by notification under section 3 of the Punjab Disturbed Areas Act, 1983, or under section 3 of the Chandigarh Disturbed Areas Act, 1983, to be a disturbed area.

(2) In the case of any person to whom sub-section (1) applies, sections 3, 8 and 10 to 14 shall have effect subject to the following modifications, namely:

(a) in section 3,—

(i) in sub-section (4), in the proviso,—

(A) for the words “ten days”, the words “fifteen days” shall be substituted;
(B) for the words “fifteen days”, the words “twenty days” shall be substituted;

(ii) in sub-section (5), for the words “seven days”, the words “fifteen days” shall be substituted;
(b) in section 8, in sub-section (1), for the words "ten days", the words "fifteen days" shall be substituted;

(c) in section 10, for the words "shall, within three weeks", the words "shall, within four months and two weeks" shall be substituted;

(d) in section 11,—

(i) in sub-section (1), for the words "seven weeks", the words "five months and three weeks" shall be substituted;

(ii) in sub-section (2), for the words "detention of the person concerned", the words "continued detention of the person concerned" shall be substituted;

(e) in section 12, for the words "for the detention", at both the places where they occur, the words "for the continued detention" shall be substituted;

(f) in section 13, for the words "twelve months", the words "two years" shall be substituted;

(g) in section 14, in the proviso to sub-section (2), for the words "twelve months", the words "two years" shall be substituted.


ZAIL SINGH,
President.

S. RAMAIAH,
Secy. to the Govt. of India.
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 2nd July, 1987/Asadha 11, 1909 (Saka)

THE CONSERVATION OF FOREIGN EXCHANGE AND
PREVENTION OF SMUGGLING ACTIVITIES
(AMENDMENT) ORDINANCE, 1987

No. 4 of 1987

Promulgated by the President in the Thirty-eighth Year of the Republic of India.

An Ordinance further to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

WHEREAS the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1987.

(2) It shall come into force at once.

(1)
2. In the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, in section 9, in sub-section (I),—

(a) for the figures, letters and words "31st day of July, 1987", the figures, letters and words "31st day of July, 1990" shall be substituted;

(b) in Explanation 1, in clauses (i) and (ii), for the words "the States of Gujarat, Karnataka, Kerala, Maharashtra and Tamil Nadu and the Union territories of Goa, Daman and Diu and Pondicherry", the words "the States of Goa, Gujarat, Karnataka, Kerala, Maharashtra and Tamil Nadu and the Union territories of Daman and Diu and Pondicherry" shall be substituted.

ZAIL SINGH,
President.

S. RAMAIAH,
Secy. to the Govt. of India.
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19th September, 1987/Bhadra 28, 1909 (Saka)

THE CONSTITUTION (SCHEDULED TRIBES) ORDER (AMENDMENT) ORDINANCE, 1987

No. 5 of 1987

Promulgated by the President in the Thirty-eighth Year of the Republic of India.

An Ordinance to provide for the inclusion of certain tribes in the list of Scheduled Tribes specified in relation to the State of Meghalaya.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Constitution (Scheduled Tribes) Order (Amendment) Ordinance, 1987.
(2) It shall come into force at once.

2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in "PART XI.—Meghalaya", after item 14, the following items shall be inserted, namely:—

"15. Boro Kacharis
16. Koch...
17. Raba, Rava."

R. VENKATARAMAN,
President.

S. RAMAIAH,
Secy. to the Govt. of India.
MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 19th September, 1987/Bhadra 28, 1909 (Saka)

THE FINANCE (AMENDMENT) ORDINANCE, 1987

No. 6 of 1987

Promulgated by the President in the Thirty-eighth Year of the Republic of India.


WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Finance (Amendment) Ordinance, 1987.

(2) It shall come into force at once.

(1)
2. In the First Schedule to the Finance Act, 1987, in Part III, the following shall be added at the end, namely:

"Surcharge on income-tax

The amount of income-tax computed in accordance with the provisions of Paragraphs A, B, C, D and E of this Part, shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax."

3. Notwithstanding anything contained in the Income-tax Act, 1961, the surcharge payable under Part III of the First Schedule to the Finance Act, 1987, as amended by this Ordinance, in respect of the instalments of advance tax payable on the 15th day of June, 1987 and the 15th day of September, 1987, shall be payable on or before the 30th day of September, 1987.

R. VENKATARAMAN,
President.

S. RAMAIInH,
Secy. to the Govt. of India.
MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 22nd September, 1987/Bhadra 31, 1909 (Saka)

THE REPRESENTATION OF THE PEOPLE
(AMENDMENT) ORDINANCE, 1987

No. 7 of 1987

Promulgated by the President in the Thirty-eighth Year of the Republic of India.

An Ordinance further to amend the Representation of the People Act, 1950.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Representation of the People (Amendment) Ordinance, 1987.

(2) It shall come into force at once.

Short title and commencement.
2. In section 7 of the Representation of the People Act, 1950,—

(i) in sub-section (I), for the word, brackets, figure and letters "sub-section (IA)", the words, brackets, figures and letters "sections (IA) and (IB)"

(ii) after sub-section (IA), the following sub-section shall be inserted, namely:

"(IB) Notwithstanding anything contained in sub-section (I), in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, to be constituted at any time after the commencement of the Representation of the People (Amendment) Ordinance, 1987,—

(a) thirty-nine seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Arunachal Pradesh;

(b) fifty-five seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Meghalaya;

(c) thirty-nine seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Mizoram;

(d) fifty-nine seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Nagaland."
THE AUROVILLE (EMERGENCY PROVISIONS) AMENDMENT ORDINANCE, 1987

No. 8 of 1987

Promulgated by the President in the Thirty-eighth Year of the Republic of India.


WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Auroville (Emergency Provisions) Amendment Ordinance, 1987.

(2) It shall come into force at once.
2. In section 3 of the Auroville (Emergency Provisions) Act, 1980, in sub-section (1), in the proviso, for the words “seven years”, the words “eight years” shall be substituted.

R. VENKATARAMAN,
President.

C. RAMAN MENON,
Additional Secy. to the Govt. of India.
WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to Promulgate the following Ordinance:—

It shall come into force at once.
2. In the Delhi Municipal Corporation Act, 1957, in sub-section (1) of section 4, for the proviso, the following proviso shall be substituted, namely:

"Provided that the Central Government may, by notification in the Official Gazette, extend for reasons to be specified in the notification, the term of office of all the councillors and aldermen by such period not exceeding one year at a time as it thinks fit, so, however, that the total period so extended shall not exceed three years."

R. VENKATARAMAN,
President.

C. RAMAN MENON,
Additional Secy, to the Govt. of India.
WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Delhi Administration (Amendment) Ordinance, 1987.

2. (2) It shall come into force at once.
2. In section 10 of the Delhi Administration Act, 1966, for the words "Provided that the said period", the following shall be substituted, namely:

"Provided that the Central Government may, by notification in the Official Gazette, extend the said period for reasons to be specified in the notification by such period not exceeding one year at a time as it thinks fit, so, however, that the total period so extended shall not exceed three years:

Provided further that the said period or extended period".

R. VENKATARAMAN,
President.

C. RAMAN MENON,
Additional Secy. to the Gouv. of India.
An Ordinance further to amend the Major Port Trusts Act, 1963.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Major Port Trusts (Amendment) Ordinance, 1988.

(2) It shall come into force at once.

2. In section 88 of the Major Port Trusts Act, 1963,—

(a) in sub-section (2),—

(i) in the opening portion, for the words “All moneys standing at the credit of the Board”, the words “Subject to such general or special directions as the Central Government may, for the
purpose of maintenance or development of major ports in the country or generally for the development of shipping and navigation, give in this behalf, all moneys standing at the credit of the Board shall be substituted;

(ii) in clause (a), for the words "scheduled bank or banks", the words "corresponding new bank or banks" shall be substituted;

(iii) in clause (b), the word "or" shall be added at the end;

(iv) after clause (b), the following clause and Explanation shall be inserted, namely:

' (c) be given as a loan to the Board of another port for the development of that port.

Explanation.—For the purposes of this sub-section, "corresponding new bank" means a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

(b) after sub-section (2), the following sub-sections shall be inserted, namely:

"(3) Every direction issued by the Central Government under sub-section (2) shall be complied with by the Board and shall not be called in question in any court on any ground.

(4) No suit or other legal proceeding shall lie against the Central Government, the Board or any officer or other employee of the Board authorised by it in this behalf for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any direction issued under sub-section (2)."

R. VENKATARAMAN,
President.

S. RAMAIH.
Secy. to the Govt. of India.
**MINISTRY OF LAW AND JUSTICE**  
*(Legislative Department)*

New Delhi, the 19th May, 1988/Vaisakha 29, 1910 (Saka)

**THE BENAMI TRANSACTIONS (PROHIBITION OF THE RIGHT TO RECOVER PROPERTY) ORDINANCE, 1988**  
No. 2 of 1988

Promulgated by the President in the Thirty-ninth Year of the Republic of India.

An Ordinance to prohibit the right to recover property held benami and for matters connected therewith or incidental thereto.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Benami Transactions (Prohibition of the Right to Recover Property) Ordinance, 1988.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.
2. (1) No suit, claim or action to enforce any right in respect of any property held benami against the person in whose name the property is held or against any other person shall lie by or on behalf of a person claiming to be the real owner of such property.

(2) No defence based on any right in respect of any property held benami, whether against the person in whose name the property is held or against any other person, shall be allowed in any suit, claim or action by or on behalf of a person claiming to be the real owner of such property.

(3) Nothing in this section shall apply,—

(a) where the person in whose name the property is held is a co-parcener in a Hindu undivided family and the property is held for the benefit of the co-parceners in the family; or

(b) where the person in whose name the property is held is a trustee or other person standing in a fiduciary capacity, and the property is held for the benefit of another person for whom he is a trustee or towards whom he stands in such capacity.

3. Nothing in this Act shall affect the provisions of section 53 of the Transfer of Property Act, 1882, or any law relating to transfers for an illegal purpose.


(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall affect the continued operation of section 281A of the Income-tax Act, 1961, in the State of Jammu and Kashmir.

R. VENKATARAMAN,
President.

S. RAMAIAH,
Secy. to the Govt. of India.
MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th May, 1988

THE RELIGIOUS INSTITUTIONS (PREVENTION OF MISUSE) ORDINANCE, 1988

No. 3 of 1988

Promulgated by the President in the Thirty-ninth Year of the Republic of India.

An Ordinance to prevent the misuse of religious institutions for political and other purposes.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Religious Institutions (Prevention of Misuse) Ordinance, 1988.

(1)
(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

Definitions.

2. In this Ordinance, unless the context otherwise requires—

(a) "ammunition" shall have the same meaning as in clause (b) of sub-section (1) of section 2 of the Arms Act, 1959;

(b) "arms" shall have the same meaning as in clause (c) of sub-section (1) of section 2 of the Arms Act, 1959;

(c) "manager", in relation to a religious institution, means every person, including any religious functionary (by whatever name called), who, for the time being, either alone or in association with other persons, administers, manages or otherwise controls the affairs of that institution, its functions or properties;

(d) "political activity", includes any activity promoting or propagating the aims or objects of a political party or any cause, issue or question of a political nature by organising meetings, demonstrations, processions, collection or disbursement of funds, or by the issue of directions or decrees, or by any other means, and includes such activity by or on behalf of a person seeking election as a candidate for any election to Parliament, any State Legislature or any local authority;

(e) "political party" means an association or body of persons,—

(i) which is, or is deemed to be, registered with the Election Commission of India as a political party under the Election Symbols (Reservation and Allotment) Order, 1968, as in force for the time being; or

(ii) which has set up candidates for election to any legislature, but is not so registered or deemed to be registered under the Election Symbols (Reservation and Allotment) Order, 1968; or

(iii) organised to carry on any political activity or to acquire or exercise political power through election or otherwise;

(f) "religious institution" means any place or premises used as a place of public religious worship, by whatever name or designation known.

3. No religious institution or manager thereof shall use or allow the use of any premises belonging to, or under the control of, the institution,—

(a) for the promotion or propagation of any political activity; or

(b) for the harbouring of any person accused or convicted of an offence under any law for the time being in force; or

(c) for the storing of any arms or ammunition; or

(d) for keeping any goods or articles in contravention of any law for the time being in force; or
(e) for erecting or putting up any construction or fortification, including basements, bunkers, towers or walls without a valid licence or permission under any law for the time being in force; or

(f) for the carrying on of any unlawful or subversive act prohibited under any law for the time being in force or in contravention of any order made by any court; or

(g) for the doing of any act which promotes or attempts to promote disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities;

(h) for the carrying on of any activity prejudicial to the sovereignty, unity and integrity of India; or

(i) for the doing of any act in contravention of the provisions of the Prevention of Insults to National Honour Act, 1971.

4. No religious institution or manager thereof shall allow the entry of any arms or ammunition or of any person carrying any arms or ammunition into the religious institution:

Provided that nothing in this section shall apply to—

(a) the wearing and carrying of a kirpan by any person professing the Sikh religion; or

(b) any arms which are used as part of any religious ceremony, or ritual of the institution, as established by custom or usage.

5. No religious institution or manager thereof shall use or allow to be used any funds or other properties belonging to the institution for the benefit of any political party or for the purpose of any political activity or for the commission of any act which is punishable as an offence under any law.

6. No religious institution or manager thereof shall allow any ceremony, festival, congregation, procession or assembly organised or held under its auspices to be used for any political activity.

7. Where any religious institution or manager thereof contravenes the provisions of section 3, section 4, section 5 or section 6, the manager and every person connected with such contravention shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to ten thousand rupees.

8. (1) Any manager or other person, being an employee of a religious institution shall, upon conviction for an offence under this Ordinance stand removed from his office or post and shall, notwithstanding anything to the contrary contained in any other law, be disqualified for appointment in any religious institution as manager or in any other capacity for a period of six years from the date of his conviction.
(2) Where any person is accused of an offence under this Ordinance and a charge-sheet for the prosecution of such person is filed in any court and the court is of the opinion, after considering the charge-sheet and after hearing the prosecution and the accused, that a prima facie case exists, it shall pass an order or direction restraining the person from exercising the powers or discharging the duties of his office or post pending trial.

(3) Where any manager or other employee has been removed under sub-section (1), or restrained under sub-section (2), the vacancy arising out of such removal or restraint may be filled in the manner provided in the law applicable to the said religious institution.

9. Every manager or employee of a religious institution shall be bound to give information to the officer in charge of the police station within whose local jurisdiction the religious institution is situate, of any contravention or any impending contravention of the provisions of this Ordinance and any failure to do so, shall be punishable under section 176 of the Indian Penal Code.

R. VENKATARAMAN,
President.

S. RAMAIYAH,
Secy. to the Govt. of India.
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 26th May, 1988|Jyaistha 5, 1910 (Saka)

THE NATIONAL SECURITY (AMENDMENT) ORDINANCE, 1988

No. 4 of 1988

Promulgated by the President in the Thirty-ninth Year of the Republic of India

An Ordinance further to amend the National Security Act, 1980, in its application to the State of Punjab and the Union territory of Chandigarh.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the National Security (Amendment) Ordinance, 1988.

(2) It shall come into force at once.
2. In the National Security Act, 1980, as applicable to the State of Punjab and the Union territory of Chandigarh, in sub-section (1) of section 14A, for the figures, letters and words "8th day of June 1988", the figures, letters and words "8th day of June 1989" shall be substituted.

R. VENKATARAMAN,
President.

S. RAMAIAH,
Secy. to the Govt. of India.
PART II—Section 1

PUBLISHED BY AUTHORITY

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 27th May, 1988 (Jyaistha 6, 1910 (Saka))

THE ARMS (AMENDMENT) ORDINANCE, 1988

No. 5 of 1988

Promulgated by the President in the Thirty-ninth Year of the Republic of India,

An Ordinance further to amend the arms Act, 1959.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Arms (Amendment) Ordinance, 1988.

(2) It shall come into force at once.
2. In section 2 of the Arms Act, 1959 (hereinafter referred to as the principal Act), in sub-section (1),—

(i) in clause (b), in sub-clause (i), for the words “and other like missiles”, the words “and other missiles” shall be substituted;

(ii) in clause (h), after the word “shells”, the word “missiles,” shall be inserted.

3. In sub-section (1) of section 5 of the principal Act, in clause (a), for the word “manufacture”, the words “use, manufacture” shall be substituted.

4. In section 7 of the principal Act, in clause (b), for the word “manufacture”, the words “use, manufacture” shall be substituted.

5. In section 25 of the principal Act,—

(a) in sub-section (1), clause (c) shall be omitted;

(b) sub-section (1A) shall be re-numbered as sub-section (1AAA) thereof, and before sub-section (1AAA) as so re-numbered, the following sub-sections shall be inserted, namely:—

“(1A) Whoever acquires, has in his possession or carries any prohibited arms or prohibited ammunition in contravention of section 7 shall be punishable with imprisonment for a term which shall not be less than five years, but which may extend to ten years and shall also be liable to fine.

(1AA) Whoever manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer or has in his possession for sale, transfer, conversion, repair, test or proof, any prohibited arms or prohibited ammunition in contravention of section 7 shall be punishable with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and shall also be liable to fine.”.

6. For section 27 of the principal Act, the following section shall be substituted, namely:—

“27. (1) Whoever uses any arms or ammunition in contravention of section 5 shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

(2) Whoever uses any prohibited arms or prohibited ammunition in contravention of section 7 shall be punishable with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and shall also be liable to fine.”
(3) Whoever uses any prohibited arms or prohibited ammunition or does any act in contravention of section 7 and such use or act results in the death of any other person, shall be punishable with death.

R. VENKATARAMAN,
President.

S. RAMAIJAH,
Secy. to the Govt. of India.
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 2nd July, 1988/Asadha 11, 1910 (Saka)

THE BHARAT PETROLEUM CORPORATION LIMITED (DETERMINATION OF CONDITIONS OF SERVICE OF EMPLOYEES), ORDINANCE, 1988

No. 6 of 1988

Promulgated by the President in the Thirty-ninth Year of the Republic of India.

An Ordinance to empower the Central Government to determine the conditions of service of the officers and employees of Bharat Petroleum Corporation Limited and for matters connected therewith.

WHEREAS for the purpose of making the conditions of service of the officers and employees of the Bharat Petroleum Corporation Limited comparable with the conditions of service of the officers and employees of other public sector companies, it is necessary to empower the Central Government to determine the conditions of service of the officers and employees of the said Corporation;

AND WHEREAS a Bill to empower the Central Government to determine the conditions of service of the officers and employees of Bharat Petroleum Corporation Limited and for matters connected therewith, has been passed by the House of the People and is pending in the Council of States;
AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the Bill;

Now therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Bharat Petroleum Corporation Limited (Determination of Conditions of Service of Employees) Ordinance, 1988.

(2) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,—

(a) "Burmah Shell" means the Burmah Shell Oil Storage and Distributing Company of India Limited, a foreign company within the meaning of section 591 of the Companies Act, 1956 as it existed immediately before the appointed day under the Burmah Shell (Acquisition of Undertakings in India) Act, 1976;

(b) "Burmah Shell Refineries" means the Burmah Shell Refineries Limited, a company registered under the Indian Companies Act, 1913, as it existed immediately before it became a Government company;

(c) "Corporation" means the Bharat Petroleum Corporation Limited, a Government company, as defined in section 617 of the Companies Act, 1956;

(d) "officers and employees of the Corporation" includes,—

(i) the officers and employees who were in the service of the Burmah Shell Refineries and who continued to be in the service of the said company after it became a Government company; and

(ii) the officers and employees who were in the service of Burmah Shell and whose services were transferred to the Corporation by section 9 of the Burmah Shell (Acquisition of Undertakings in India) Act, 1976;

(e) "public sector company" means any corporation established by or under any Central Act or a Government company as defined in section 617 of the Companies Act, 1956.

3. (1) Where the Central Government is satisfied that for the purpose of making the conditions of service of the officers and employees of the Corporation comparable with the conditions of service of the officers and employees of other public sector companies, it is necessary so to do, it may, notwithstanding anything contained in the Industrial Disputes Act, 1947 or any other law or any agreement, settlement, award or other instrument for the time being in force, and notwithstanding any judgment, decree or order of any court, tribunal or other authority, frame one or more schemes for the purpose of determination of the conditions of service of the officers and employees of the Corporation.
(2) While framing any scheme under sub-section (1), it shall be competent for the Central Government to provide for the continuance, after the commencement of any such scheme, of such of the emoluments or other benefits as were payable to, or entitled to be received by, the officers and employees of the Corporation referred to in sub-clause (i) or sub-clause (ii) of clause (d) of section 2 immediately before the Burmah Shell Refineries became a Government company, or as the case may be, immediately before the appointed day under the Burmah Shell (Acquisition of Undertakings in India) Act, 1976.

(3) The Central Government may make a scheme to amend or vary any scheme made under sub-section (1).

(4) The power to make any scheme under sub-section (1) or sub-section (3) shall include,—

(a) the power to give retrospective effect to any such scheme or any provision thereof; and

(b) the power to amend, by way of addition, variation or repeal, any existing provisions determining the conditions of service of the officers and employees of the Corporation in force immediately before the commencement of this Ordinance.

(5) Every scheme made under sub-section (1) or sub-section (3) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme, or both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no-effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme.

R. VENKATARAMAN,
President.

C. RAMAN MENON,
Additional Secy. to the Govt. of India.
THE BHARAT PETROLEUM CORPORATION LIMITED (DETERMINATION OF CONDITIONS OF SERVICE OF EMPLOYEES) ORDINANCE, 1988

No. 6 of 1988

Promulgated by the President in the Thirty-ninth Year of the Republic of India.

An Ordinance to empower the Central Government to determine the conditions of service of the officers and employees of Bharat Petroleum Corporation Limited and for matters connected therewith.

WHEREAS for the purpose of making the conditions of service of the officers and employees of the Bharat Petroleum Corporation Limited comparable with the conditions of service of the officers and employees of other public sector companies, it is necessary to empower the Central Government to determine the conditions of service of the officers and employees of the said Corporation;

AND WHEREAS a Bill to empower the Central Government to determine the conditions of service of the officers and employees of Bharat Petroleum Corporation Limited and for matters connected therewith, has been passed by the House of the People and is pending in the Council of States;
The following Act of Parliament received the assent of the President on the 4th July, 1988, and is hereby published for general information:

THE PREVENTION OF ILICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES
ORDINANCE, 1988

No. 7 of 1988

Promulgated by the President in the Thirty-ninth Year of the Republic of India.

An Ordinance to provide for detention in certain cases for the purpose of preventing illicit traffic in narcotic drugs and psychotropic substances and combating abuse of such drugs and substances and for matters connected therewith.

WHEREAS illicit traffic in narcotic drugs and psychotropic substances poses a serious threat to the health and welfare of the people and activities of persons engaged in such illicit traffic have deleterious effect on the national economy;

AND WHEREAS having regard to the persons by whom and the manner in which such illicit traffic is organised and carried on, and having
regard to the fact that in certain areas which are highly vulnerable to such illicit traffic, such activities of a considerable magnitude are clandestinely organised and carried on, it is necessary for the effective prevention of such activities to provide for detention of persons concerned in any manner therewith;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Ordinance, 1988.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,—

(a) “appropriate Government” means, as respects a detention order made by the Central Government or by an officer of the Central Government, or a person detained under such order, the Central Government, and as respects a detention order made by a State Government or by an officer of a State Government, or a person detained under such order, the State Government;

(b) “customs airport” means an airport appointed under clause (a) of section 7 of the Customs Act, 1962;

(c) “detention order” means an order made under section 3;

(d) “foreigner” has the same meaning as in the Foreigners Act, 1946;

(e) “illicit traffic” means—

(i) cultivating any coca plant or gathering any portion of coca plant;

(ii) cultivating the opium poppy or any cannabis plant;

(iii) engaging in the production, manufacture, possession, sale, purchase, transportation, warehousing, concealment, use or consumption, import inter-State, export inter-State, import into India, export from India or transhipment, of narcotic drugs or psychotropic substances;

(iv) dealing in narcotic drugs psychotropic substances otherwise than as provided in sub-clauses (i) to (iii);

(v) handling or letting any premises for use for any of the purposes referred to in sub-clauses (i) to (iv);

(vi) financing any activity by himself or through any other person in the furtherance or in support of doing any of the aforesaid acts;

(vii) harbouring persons engaged in any of the activities specified in sub-clauses (i) to (vi); or
(viii) abetting or conspiring in the furtherance or in support of, doing any of the aforesaid acts, except to the extent permitted under the Narcotic Drugs and Psychotropic substances Act, 1985, or any rule or order made, or any condition of any licence, permit or authorisation issued, thereunder;

(f) "Indian Customs waters" has the same meaning as in clause (28) of section 2 of the Customs Act, 1962;

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

(h) words and expressions used herein but not defined, and defined in the Narcotic Drugs and Psychotropic Substances Act, 1985, have the meanings respectively assigned to them in that Act.

3. (1) The Central Government or a State Government, or any officer of the Central Government, not below the rank of a Joint Secretary to that Government, specially empowered for the purposes of this section by that Government, or any officer of a State Government, not below the rank of a Secretary to that Government, specially empowered for the purposes of this section by that Government, may, if satisfied, with respect to any person (including a foreigner) that, with a view to preventing him from committing any of the acts within the meaning of "illicit traffic" as defined in clause (e) of section 2, it is necessary so to do, make an order directing that such person be detained.

(2) When any order of detention is made by a State Government or by an officer empowered by a State Government, the State Government shall, within ten days, forward to the Central Government a report in respect of the order.

(3) For the purpose of clause (5) of article 22 of the Constitution, the communication to a person detained in pursuance of a detention order of the grounds on which the order has been made shall be made as soon as may be after the detention, but ordinarily not later than five days, and in exceptional circumstances and for reasons to be recorded in writing, not later than fifteen days, from the date of detention.

4. A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973.

5. Every person in respect of whom a detention order has been made shall be liable—

(a) to be detained in such place and under such conditions including conditions as to maintenance, interviews or communication with others, discipline and punishment for breaches of discipline, as the appropriate Government may, by general or special order, specify; and

(b) to be removed from one place of detention to another place of detention, whether within the same State or in another State by order of the appropriate Government:
Provided that no order shall be made by a State Government under clause (b) for the removal of a person from one State to another State except with the consent of the Government of that other State.

6. Where a person has been detained in pursuance of an order of detention under sub-section (1) of section 3 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds and accordingly—

(a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—

(i) vague,

(ii) non-existent,

(iii) not relevant,

(iv) not connected or not proximately connected with such person, or

(v) invalid for any other reason whatsoever,

and it is not therefore possible to hold that the Government or officer making such order would have been satisfied as provided in sub-section (1) of section 3 with reference to the remaining ground or grounds and made the order of detention;

(b) the Government or officer making the order of detention shall be deemed to have made the order of detention under the said sub-section (1) after being satisfied as provided in that sub-section with reference to the remaining ground or grounds.

7. No detention order shall be invalid or inoperative merely by reason—

(a) that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the Government or the officer making the order of detention; or

(b) that the place of detention of such person is outside the said limits.

8. (1) If the appropriate Government has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, that Government may—

(a) make a report in writing of the fact to a Metropolitan Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 82, 83, 84 and 85 of the Code of Criminal Procedure, 1973 shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate;

(b) by order notified in the Official Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order; and if the said person fails
to comply with such direction, he shall, unless he proves that it was not possible for him to comply therewith and that he had within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under clause (b) of sub-section (1) shall be cognizable.

9. For the purposes of sub-clause (a) of clause (4) and sub-clause (c) of clause (7) of article 22 of the Constitution,—

(a) the Central Government and such State Government shall, whenever necessary, continue one or more Advisory Boards each of which shall consist of a Chairman and two other persons possessing the qualifications specified in sub-clause (a) of clause (4) of article 22 of the Constitution;

(b) save as otherwise provided in section 10, the appropriate Government shall, within five weeks from the date of detention of a person under a detention order, make a reference in respect thereof to the Advisory Board constituted under clause (a) to enable the Advisory Board to make the report under sub-clause (a) of clause (4) of the Constitution;

(c) the Advisory Board to which a reference is made under clause (b) shall, after considering the reference and the materials placed before it and after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if, in any particular case, it considers it essential so to do or if the person concerned desires to be heard in person, after having heard him in person, prepare its report specifying in a separate paragraph thereof its opinion as to whether or not there is sufficient cause for the detention of the person concerned and submit the same within eleven weeks from the date of detention of the person concerned;

(d) when there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board;

(e) a person against whom an order of detention has been made under this ordinance shall not be entitled to appear by any legal practitioner in any matter connected with the reference to the Advisory Board and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential;

(f) in every case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit and in every case where the Advisory Board has re-
to comply with such direction, he shall, unless he proves that it was not possible for him to comply therewith and that he had within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under clause (b) of sub-section (1) shall be cognizable.

9. For the purposes of sub-clause (a) of clause (4) and sub-clause (c) of clause (7) of article 22 of the Constitution,—

(a) the Central Government and such State Government shall, whenever necessary, continue one or more Advisory Boards each of which shall consist of a Chairman and two other persons possessing the qualifications specified in sub-clause (a) of clause (4) of article 22 of the Constitution;

(b) save as otherwise provided in section 10, the appropriate Government shall, within five weeks from the date of detention of a person under a detention order, make a reference in respect thereof to the Advisory Board constituted under clause (a) to enable the Advisory Board to make the report under sub-clause (a) of clause (4) of article 22 of the Constitution;  

(c) the Advisory Board to which a reference is made under clause (b) shall, after considering the reference and the materials placed before it and after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if, in any particular case, it considers it essential so to do or if the person concerned desires to be heard in person, after hearing him in person, prepare its report specifying in a separate paragraph thereof its opinion as to whether or not there is sufficient cause for the detention of the person concerned and submit the same within eleven weeks from the date of detention of the person concerned;

(d) when there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board;

(e) a person against whom an order of detention has been made under this ordinance shall not be entitled to appear by any legal practitioner in any matter connected with the reference to the Advisory Board and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential;

(f) in every case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit and in every case where the Advisory Board has re-
ported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order and cause the person to be released forthwith.

10. (1) Notwithstanding anything contained in this Ordinance, any person (including a foreigner) in respect of whom an order of detention is made under this Ordinance at any time before the 31st day of July, 1990, may be detained without obtaining, in accordance with the provisions of sub-clause (a) of clause (4) of article 22 of the Constitution, the opinion of an Advisory Board for a period longer than three months but not exceeding one year from the date of his detention, where the order of detention has been made against such person with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, and the Central Government or any officer of the Central Government, not below the rank of an Additional Secretary to that Government, specially empowered for the purposes of this section by that Government, is satisfied that such person engages or is likely to engage in illicit traffic in narcotic drugs and psychotropic substances into, out of, or through any area highly vulnerable to such illicit traffic and makes a declaration to that effect within five weeks of the detention of such person.

Explanation.—In this sub-section, “area highly vulnerable to such illicit traffic” means—

(i) the Indian customs waters contiguous to the States of Goa, Gujarat, Karnataka, Kerala, Maharashtra, Tamil Nadu and the Union territories of Daman and Diu and Pondicherry;

(ii) the Customs airports;

(iii) the metropolitan cities of Bombay, Calcutta, Delhi, Madras and the city of Varanasi;

(iv) the inland area one hundred kilometres in width from the coast of India falling within the territories of the States of Andhra Pradesh, Goa, Gujarat, Karnataka, Kerala, Maharashtra, Orissa, Tamil Nadu and West Bengal and the Union territories of Daman and Diu and Pondicherry;

(v) the inland area one hundred kilometres in width from—

(a) the India-Pakistan border in the States of Gujarat, Punjab and Rajasthan;

(b) the India-Nepal border in the States of Bihar, Sikkim, Uttar Pradesh and West Bengal;

(c) the India-Burma border in the States of Arunachal Pradesh, Manipur, Mizoram and Nagaland;

(d) the India-Bangladesh border in the States of Assam, Meghalaya, Tripura and West Bengal;

(e) the India-Bhutan border in the States of Arunachal Pradesh, Assam, Sikkim and West Bengal.
for the detention shall be released.

(2) In the case of any person detained under a detention order to which the provisions of sub-section (1) apply, section 9 shall have effect subject to the following modifications, namely:

(i) in clause (b), for the words "shall, within five weeks", the words "shall, within four months and two weeks" shall be substituted;

(ii) in clause (c),—

(a) for the words "the detention of the person concerned", the words "the continued detention of the person concerned" shall be substituted;

(b) for the words "eleven weeks", the words "five months and three weeks" shall be substituted;

(iii) in clause (f), for the words "for the detention", at both the places where they occur, the words "for the continued detention" shall be substituted.

The maximum period for which any person may be detained in pursuance of any detention order to which the provisions of section 10 do not apply and which has been confirmed under clause (f) of section 9 shall be one year from the date of detention, and maximum period for which any person may be detained in pursuance of any detention order to which the provisions of section 10 apply and which has been confirmed under clause (f) of section 9, read with sub-section (2) of section 10, shall be two years from the date of detention:

Provided that nothing contained in this section shall affect the power of appropriate Government in either case to revoke or modify the detention order at any earlier time.

12. (1) Without prejudice to the provisions of section 21 of the General Clauses Act, 1897, a detention order may, at any time, be revoked or modified—

(a) notwithstanding that the order has been made by an officer of a State Government, by that State Government or by the Central Government;

(b) notwithstanding that the order has been made by an officer of the Central Government or by a State Government.

(2) The revocation of a detention order shall not bar the making of another detention order under section 3 against the same person.

13. (1) The Central Government may, at any time, direct that any person detained in pursuance of a detention order made by that Government or by an officer subordinate to that Government or by a State Government or by an officer subordinate to a State Government, may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may, at any time, cancel his release.

(2) A State Government may, at any time, direct that any person detained in pursuance of a detention order made by that Government or
by an officer subordinate to that Government may be released for any specified period either without conditions or upon such conditions specified in the direction as the person accepts, and may, at any time, cancel his release.

(3) In directing the release of any person under sub-section (1) or sub-section (2), the Government directing the release may require him to enter into a bond with sureties for the due observance of the conditions specified in direction.

(4) Any person released under sub-section (1) or sub-section (2) shall surrender himself at the time and place, and to the authority, specified in the order directing his release, or cancelling his release, as the case may be.

(5) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (4), he shall be punishable with imprisonment for a term which may extend to two years or with fine, or with both.

(6) If any person released under sub-section (1) or sub-section (2) fails to fulfill any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

(7) Notwithstanding anything contained in any other law and save as otherwise provided in this section, no person against whom a detention order made under this Ordinance is in force shall be released whether on bail or bail bond or otherwise.

15. In section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, to sub-section (1), the following proviso shall be added, namely:

"Provided that no order of detention shall be made on any of the grounds specified in this sub-section on which an order of detention may be made under section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Ordinance, 1988."

R. VENKATARAMAN,
President.

C. RAMAN MENON,
Additional Secy. to the Govt. of India.

An Ordinance further to amend the Income-tax Act, 1961.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Income-tax (Amendment) Ordinance, 1989.

(2) It shall come into force at once.

2. In section 10 of the Income-tax Act, 1961 (hereinafter referred to as the principal Act), after clause (15), the following clause shall be inserted, namely:

'(15A) any payment made, by an Indian company engaged in the business of operation of aircraft, to acquire an aircraft on lease...
from the government of a foreign State or a foreign enterprise under an agreement approved by the Central Government in this behalf.

Explanation.—For the purpose of this clause, “foreign enterprise” means a person who is a non-resident.

3. In section 80G of the principal Act,—

(a) in sub-section (1), in clause (i), after the word, brackets, figures and letter “sub-clause (iii)”, the words, brackets, figures and letters “or in sub-clause (iiiia)” shall be inserted;

(b) in sub-section (2), in clause (a), after sub-clause (iii), the following sub-clause shall be inserted, namely:—

“(iiiia) the Prime Minister’s Armenia Earthquake Relief Fund; or”.

R. VENKATARAMAN,
President.

V. S. RAMA DEVI,
Secy. to the Govt. of India
PART II—Section 1

PUBLISHED BY AUTHORITY

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 21st October, 1989/Asvina 29, 1911 (Saka)

THE REPRESENTATION OF THE PEOPLE
(AMENDMENT) ORDINANCE, 1989

No. 2 of 1989

Promulgated by the President in the Fortieth Year of the Republic of India.

An Ordinance further to amend the Representation of the People Act, 1951,

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Representation of the People (Amendment) Ordinance, 1989.

(2) It shall come into force at once.

1.
2. In the Representation of the People Act, 1951, after section 73A, the following section shall be inserted, namely:

"73AA. Notwithstanding anything contained in section 73 or in any other provision of this Act, with respect to the general election for the purpose of constituting a new House of the People upon the expiry of the term of the House of the People in existence on the commencement of the Representation of the People (Amendment) Ordinance, 1989,—

(a) the notification under section 73 may be issued without taking into account the Parliamentary constituencies in the State of Assam; and

(b) the Election Commission may take the steps in relation to elections from the Parliamentary constituencies in the State of Assam separately and in such manner and on such date as it may deem appropriate."

R. VENKATARAMAN
President

V. S. RAMADEV
Secy. to the Govt. of Indi
PART II—Section 1


Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Code of Criminal Procedure (Amendment) Ordinance, 1990.

(2) It shall come into force at once.

(1)
2. In the Code of Criminal Procedure, 1973, in Chapter XII, after section 166, the following sections shall be inserted, namely:—

166A. (1) If, in the course of an investigation into an offence, the investigating officer or an officer superior in rank to the investigating officer, has reason to believe that evidence may be available in the country or place outside India, he may issue a letter of request—

(i) to the authority competent to investigate such offence in that country or place, to examine orally any person supposed to be acquainted with the facts and circumstances of the case and to reduce into writing any statement made in the course of such examination and also to require such person or any other person to produce any document or thing which may be in his possession pertaining to the case; or

(ii) to the authority competent to direct such an investigation in that country or place, to cause it to be made in like manner;

and to forward all the evidence so taken or collected or the authenticated copies thereof or the thing so collected to the officer issuing such letter of request.

(2) Notwithstanding anything contained in sub-section (1), if, in the course of an investigation into an offence, an application is made by the investigating officer or any officer superior in rank to the investigating officer that evidence may be available in a country or place outside India, any Criminal Court may issue a letter of request to a Court or an authority in that country or place competent to examine orally any person supposed to be acquainted with the facts and circumstances of the case and also to require such person or any other person to produce any document or thing which may be in his possession pertaining to the case and to forward all the evidence so taken or collected or the authenticated copies thereof or the thing so collected to the Court issuing such letter.

(3) The letter of request shall be transmitted in such manner as the Central Government may specify in this behalf.

(4) Every statement recorded or document or thing received under sub-section (1) or sub-section (2) shall be deemed to be the evidence collected during the course of investigation under this Chapter.

166B. (1) Upon receipt of a letter of request from a Court or authority in a country or place outside India competent to issue such letter in that country or place for the examination of any person or production of any document or thing in relation to an offence under investigation in that country or place, the Central Government may, if it thinks fit,—

(i) forward the same to the Chief Metropolitan Magistrate or Chief Judicial Magistrate or such Metropolitan Magistrate or Judicial Magistrate as he may appoint in this behalf, who shall
thereupon summon the person before him and record his statement or cause the document or thing to be produced; or

(ii) send the letter to any police officer for investigation, who shall thereupon investigate into the offence in the same manner,

as if the offence had been committed within India.

(2) All the evidence taken or collected under sub-section (1), or authenticated copies thereof or the thing so collected, shall be forwarded by the Magistrate or police officer, as the case may be, to the Central Government for transmission to the Court or the authority issuing the letter of request, in such manner as the Central Government may deem fit.”.

R. VENKATARAMAN,
President.

V. S. RAMA DEVI,
Secy. to the Govt. of India.
MINISTRY OF LAW AND JUSTICE
(Legislative Department)
New Delhi, the 30th June, 1990/Asadha 9, 1912 (Saka)

THE INDIAN COUNCIL OF WORLD AFFAIRS
ORDINANCE, 1990

No. 2 of 1990

Promulgated by the President in the Forty-first Year of the Republic of India.

An Ordinance to declare the Indian Council of World Affairs to be an institution of national importance and to provide for its incorporation and matters connected therewith.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Indian Council of World Affairs Ordinance, 1990.

(2) It shall come into force at once.
2. Whereas the objects of the Indian Council of World Affairs, a society registered under the Societies Registration Act, 1860 are such as to make the institution one of national importance, it is hereby declared that the institution, known as the Indian Council of World Affairs, is an institution of national importance.

3. In this Ordinance, unless the context otherwise requires,—

(a) "appointed day" means the date of commencement of this Ordinance;

(b) "Chairperson" means the Chairperson of the Governing Body;

(c) "Council" means the Indian Council of World Affairs, incorporated under section 4;

(d) "Director" means the Director of the Council;

(e) "existing Council" means the Indian Council of World Affairs, a society registered under the Societies Registration Act, 1860 and functioning as such before the appointed day;

(f) "Fund" means the Fund of the Council referred to in section 17;

(g) "Governing Body" means the Governing Body of the Council;

(h) "member" means a member of the Council and includes the President and Vice-President;

(i) "President" means the President of the Council;

(j) "regulations" means regulations made under this Ordinance;

(k) "rules" means rules made under this Ordinance;

(l) "Vice-President" means the Vice-President of the Council.

4. (1) The Indian Council of World Affairs is hereby constituted a body corporate by the name of the Indian Council of World Affairs and as such body corporate it shall have perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, both moveable and immovable, and to contravene and shall by that name sue and be sued.

(2) The head office of the Council shall be at Delhi and the Council may, with the previous approval of the Central Government, establish branches at other places in India.

5. (1) On and from the appointed day,—

(a) all properties and other assets vested in the existing Council immediately before that day, shall vest in the Council;

(b) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, or for the existing Council immediately before that day for or
connection with the purposes of the existing Council, shall be deemed to have been incurred, entered into and engaged to be done by, with or for the Council;

(c) all sums of money due to the existing Council, immediately before that day, shall be deemed to be due to the Council;

(d) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Council, immediately before that day, may be continued or instituted by or against the Council; and

(e) every employee holding any office under the existing Council immediately before that day, shall, on that day, hold his office or service under the Council with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting; and shall continue to do so unless and until his employment under the Council is duly terminated or until his remuneration and other conditions of service are duly altered by the Council.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the absorption of any employee by the Council in its regular service under this section shall not entitle such employee to any compensation under that Act or any other law and no such claim shall be entertained by any court, tribunal or other authority.

6. (I) The Council shall consist of the following members, namely:

(a) the Minister for External Affairs of the Central Government who shall be the President, ex officio;

(b) the Director, ex officio;

(c) four members to be nominated by the Central Government who are distinguished in the field of diplomacy;

(d) nine members to be nominated by the Central Government from amongst experts in the fields of diplomatic history, international affairs, international law and organisation, global economics, strategic studies and social sciences;

(e) four members to be nominated by the Central Government who are eminent in public life;

(f) two members to be nominated by the Central Government from amongst the Vice-Chancellors of Universities;

(g) two members to be nominated by the Central Government from amongst eminent media persons;

(h) four Members of Parliament of whom two each from the House of the People and the Council of States to be nominated by the Speaker of the House of the People and the Chairman of the Council of States respectively;

(i) four members to be nominated by the Central Government to represent respectively the ministries of the Central Government dealing with Education, External Affairs, Finance and Science and Technology, ex officio.
(2) It is hereby declared that the office of the member of the Council shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

(3) A person shall be disqualified for being nominated as a member if he—

(a) has been convicted and sentenced to imprisonment for an offence, which, in the opinion of the Central Government, involves moral turpitude; or

(b) is a discharged insolvent; or

(c) is of unsound mind and stands so declared by a competent court.

7. (1) Save as otherwise provided in this section, the term of office of a member shall be three years from the date of his nomination.

(2) The term of office of an ex officio member shall continue so long as he holds the office by virtue of which he is such a member.

(3) The term of office of a member nominated to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he is nominated.

(4) A member, other than a member nominated under clause (h) of sub-section (1) of section 6, shall, unless the Central Government otherwise directs, continue in office until another person is nominated as a member in his place.

(5) The Central Government shall remove a member if he—

(a) becomes subject to any of the disqualifications mentioned in sub-section (3) of section 6; or

(b) refuses to act or becomes incapable of acting; or

(c) is, without obtaining leave of absence from the Council, absent from three consecutive meetings of the Council; or

(d) in the opinion of the Central Government, has so abused his position as to render his continuance in office detrimental to the public interest.

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

(6) A member shall, unless disqualified under sub-section (3) of section 6, be eligible for re-nomination.

(7) A member, other than an ex officio member, may resign his office by writing under his hand addressed to the Central Government, but shall continue in his office until his resignation is accepted by that Government.

(8) The manner of filling vacancies among members shall be such as may be prescribed by rules.

8. The President shall exercise such powers and discharge such functions as are laid down in this Ordinance or as may be prescribed by rules.
9. (1) There shall be a Vice-President of the Council who shall be elected by the Council from amongst the members.

(2) The Vice-President shall exercise such of the powers and perform such of the functions of the President as may be prescribed by rules or as may be delegated to him by the President.

10. Members, other than an ex officio member, shall receive such allowances, if any, from the Council as may be prescribed by rules.

11. The Council shall hold its first meeting at such time and place as may be appointed by the Central Government and shall observe such rules of procedure in regard to the transaction of business at the first meeting as may be laid down by that Government; and thereafter the Council shall meet at such times and places and observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by regulations.

12. The objects of the Council shall be—

(a) to promote the study of Indian and international affairs so as to develop a body of informed opinion on international matters;

(b) to promote India's relations with other countries through study, research, discussion, lectures, exchange of ideas and information with other organisations within and outside India engaged in similar activities;

(c) to serve as a clearing house of information and knowledge regarding world affairs;

(d) to publish books, periodicals, journals, reviews, papers, pamphlets and other literature on subjects covered under clauses (a) and (b);

(e) to establish contacts with organisations promoting objects mentioned in this section;

(f) to arrange conferences and seminars to discuss and study the Indian policy towards international affairs; and

(g) to undertake such other activities for the promotion of ideas and attainment of the above-mentioned objects.

13. (1) There shall be a Governing Body of the Council which shall be constituted by the Council from amongst the members in such manner as may be prescribed by regulations.

(2) The Governing Body shall be the Executive Committee of the Council and shall exercise such powers and discharge such functions as the Council may, by regulations made in this behalf, confer or impose upon it.

(3) The President shall be the Chairperson of the Governing Body and as Chairperson thereof shall exercise such powers and discharge such functions as may be prescribed by regulations.
(4) The procedure to be followed by the Governing Body in the exercise of its powers and discharge of its functions and the term of office of, and the manner of filling vacancies among the members of, the Governing Body, shall be such as may be prescribed by regulations.

(5) Subject to such control and restrictions as may be prescribed by rules, the Council may constitute as many standing committees and as many ad hoc committees as it thinks fit for exercising any power or discharging any function of the Council or for inquiring into, or reporting or advising upon, any matter which the Council may refer to them.

(6) The Chairperson and members of the Governing Body or a standing committee or an ad hoc committee shall receive such allowances as may be prescribed by regulations.

14. (1) There shall be a chief executive officer of the Council who shall be designated as the Director of the Council and shall be appointed by the Council:

Provided that the first Director of the Council shall be appointed by the Central Government on such terms and conditions as it thinks fit.

(2) The Director shall act as the Secretary to the Council as well as to the Governing Body.

(3) The Director shall exercise such powers and discharge such functions as may be prescribed by regulations or as may be delegated to him by the Council or the President or the Governing Body or the Chairperson.

(4) Subject to such rules as may be made in this behalf, the Council may appoint such number of other officers and employees as may be necessary for the exercise of its powers and efficient discharge of its functions and may determine the designations and grades of such other officers and employees.

(5) Subject to such rules as may be made in this behalf, the Director and other officers and employees of the Council shall be entitled to such salary and allowances and shall be governed by such conditions of service in respect of leave, pension, gratuity, provident fund and other matters, as may be prescribed by regulations made in this behalf.

15. The Council shall undertake various plans to promote, organise and implement various programmes for efficiently achieving the objects of the Council specified in section 12 and shall also perform such other functions as the Central Government may, by rules, prescribe.

16. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Council in each financial year such sums as may be considered necessary for the exercise of powers and efficient discharge of functions of the Council under this Ordinance.

17. (1) The Council shall maintain a Fund to which shall be credited—

(a) all money received from the Central Government;
(b) all moneys received by the Council by way of grants, gifts, donations, benefactions, bequests or transfers; and

(c) all moneys received by the Council in any other manner or from any other source.

(2) All moneys credited to the Fund shall be deposited in such banks or invested in such manner as the Council may, subject to the approval of the Central Government, decide.

(3) The Fund shall be applied towards meeting the administrative and other expenses of the Council, including expenses incurred in the exercise of its powers and discharge of its functions under section 15 or in relation to any of the activities referred to therein or for anything relatable thereto.

18. The Council shall prepare, in such form and at such time every year, as may be prescribed by rules, a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure of the Council and shall forward to the Central Government such number of copies thereof as may be prescribed by rules.

19. (1) The Council shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet in such form as the Central Government may, by rules, prescribe and in accordance with such general direction as may be issued by that Government, in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Council shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Council to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Council shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office or offices of the Council.

(4) The accounts of the Council as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

20. The Council shall prepare every year, in such form and at such time as may be prescribed by rules, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before each House of Parliament.
21. All orders and decisions of the Council shall be authenticated by the signature of the President or the Vice-President of the Council and all other instruments issued by the Council shall be authenticated by the signature of the Director or any other officer of the Council authorised by the Council in this behalf.

22. No act or proceeding of the Council, Governing Body or an standing or ad hoc committee under this Ordinance shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Council; or

(b) any defect in the appointment of a person acting as a member of the Council; or

(c) any irregularity in the procedure of the Council not affecting the merits of the case.

23. The Council shall furnish to the Central Government such report returns and other information as that Government may require from time to time.

24. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the manner of filling vacancies among members under sub-section (8) of section 7;

(b) the powers and functions to be exercised and discharged by the President and the Vice-President under section 8 and sub-section (2) of section 9 respectively;

(c) the allowances to be paid to the members under section 10;

(d) the control and restrictions in relation to the constitution of standing and ad hoc committees under sub-section (5) of section 15;

(e) the number of officers and employees that may be appointed by the Council and the manner of such appointment under sub-section (4) of section 14;

(f) the other functions to be performed by the Council under section 15;

(g) the form in which, and the time at which, the budget shall be prepared by the Council and the number of copies thereof to be forwarded to the Central Government under section 18;

(h) the form in which an annual statement of accounts including the balance-sheet shall be prepared by the Council under sub-section (1) of section 19;
(i) the form in which and the time at which the report of the activities of the Council shall be submitted to the Central Government under section 20;

(j) any other matter which has to be or may be prescribed by rules.

25. (1) The Council may, with the previous approval of the Central Government, make regulations consistent with the provisions of this Ordinance and the rules to carry out the purposes of this Ordinance.

(2) in particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:—

(a) the summoning and holding of meetings, other than the first meeting of the Council, the time and place where such meetings are to be held and the transaction of business at such meetings under section 11;

(b) the manner of constituting the Governing Body and standing and ad hoc committees under section 13;

(c) the powers and functions to be exercised and discharged by the Governing Body and the Chairperson under sub-sections (2) and (3) of section 13;

(d) the procedure to be followed by the Governing Body in exercise of its powers and discharge of its functions and the term of office of, and the manner of filling vacancies among, the members of the Governing Body under sub-section (4) of section 13;

(e) the allowance to be paid to the members of the standing and ad hoc committees under sub-section (6) of section 13;

(f) the powers and functions to be exercised and discharged by the Director under sub-section (3) of section 14;

(g) the salaries and allowances and other conditions of service of the Director and other officers and employees of the Council under sub-section (5) of section 14;

(h) any other matter which has to be or may be prescribed by regulations.

(3) Notwithstanding anything contained in sub-section (1), the first regulations under this Ordinance shall be made by the Central Government and any regulations so made may be altered or rescinded by the Council in exercise of its powers under sub-section (1).

26. Every rule and every regulation made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have
effect only in such modified form or be of no effect, as the case may be. So, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

27. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Ordinance as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Ordinance.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

R. VENKATARAMDAN,
President.

V. S. RAMA DEVI,
Secy. to the Govt. of India.
The Gazette of India

EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

Ministry of Law and Justice
(Legislative Department)

New Delhi, the 5th July, 1990/Asadha 14, 1912 (Sak)

THE ARMED FORCES (JAMMU AND KASHMIR) SPECIAL POWERS ORDINANCE, 1990

No. 3 of 1990

Promulgated by the President in the Forty-first Year of the Republic of India.

An Ordinance to enable certain special powers to be conferred upon members of the armed forces in the disturbed areas in the State of Jammu and Kashmir.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Armed Forces (Jammu and Kashmir) Special Powers Ordinance, 1990.

(2) It extends to the whole of the State of Jammu and Kashmir.

(3) It shall come into force at once.
2. In this Ordinance, unless the context otherwise requires,—

(a) "armed forces" means the military forces and the air force operating as land forces and includes any other armed forces of the Union so operating;

(b) "disturbed area" means an area which is for the time being declared by notification under section 3 to be a disturbed area;

(c) all other words and expressions used herein, but not defined and defined in the Air Force Act, 1950, or the Army Act, 1950, shall have the meanings respectively assigned to them in those Acts.

3. If, in relation to the State of Jammu and Kashmir, the Governor of that State or the Central Government, is of opinion that the whole or any part of the State is in such a disturbed and dangerous condition that the use of armed forces in aid of the civil power is necessary to prevent—

(a) activities involving terrorist acts directed towards overthrowing the Government as by law established or striking terror in the people or any section of the people or alienating any section of the people or adversely affecting the harmony amongst different sections of the people;

(b) activities directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and the Constitution of India,

the Governor of the State or the Central Government, may, by notification in the Official Gazette, declare the whole or any part of the State to be a disturbed area.

Explanation.—In this section, "terrorist act" has the same meaning as in Explanation to article 248 of the Constitution of India as applicable to the State of Jammu and Kashmir.

4. Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed area,—

(a) if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances;

(b) if he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempt to be made, or any structure used as a training camp for armed volunteers or utilised as a hide-out by armed gangs or absconders wanted for any offence;

(c) arrest, without warrant, any person who has committed cognizable offence or against whom a reasonable suspicion exis
that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest;

(d) enter and search, without warrant, any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any property reasonably suspected to be stolen property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises, and may for that purpose use such force as may be necessary, and seize any such property, arms, ammunition or explosive substances:

(e) stop, search and seize any vehicle or vessel reasonably suspected to be carrying any person who is a proclaimed offender, or any person who has committed a non-cognizable offence, or again: whom a reasonable suspicion exists that he has committed or is about to commit a non-cognizable offence, or any person who is carrying any arms, ammunition or explosive substance believed to be unlawfully held by him, and may, for that purpose, use such force as may be necessary to effect such stoppage, search or seizure, as the case may be.

5. Every person making a search under this Ordinance shall have the power to break open the lock of any door, almirah, safe, box, cupboard, drawer, package or other thing, if the key thereof is withheld.

6. Any person arrested and taken into custody under this Ordinance and every property, arm, ammunition or explosive substance or any vehicle or vessel seized under this Ordinance, shall be made over to the officer-in-charge of the nearest police station with the least possible delay, together with a report of the circumstances occasioning the arrest, or as the case may be, occasioning the seizure of such property, arm, ammunition or explosive substance or any vehicle or vessel as the case may be.

7. No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Ordinance.

R. VENKATARAMAN,
President.

V. S. RAMA DEVI,
Secy. to the Govt. of India.
CORRIGENDA

In the Indian Council of World Affairs Ordinance, 1990 (2 of 1990) as published in a Gazette of India, Extraordinary, Part II, Section 1, dated the 30th June, 1990 (Issue No. 39),—

At page 4, in line 9, for “a discharged” read “an undischarged”.

At page 9,—

(a) in line 10, for “powers” read “power”;

(b) in line 25, for “allowance” read “allowances”.
MINISTRY OF LAW AND JUSTICE
(Statutory Department)

New Delhi, the 30th July, 1990/Sravana 8, 1912 (Saka)

THE PREVENTION OF ILlicit TRAFFIC IN NARCOTIC DRUGS
AND PSYCHOTROPIC SUBSTANCES (AMENDMENT)
ORDINANCE, 1990

No. 4 of 1990

Promulgated by the President in the Forty-first Year of the Republic of India.

An Ordinance further to amend the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Amendment) Ordinance, 1990.

(2) It shall come into force at once.

(1)
2. In the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, in section 10, in sub-section (1), for the figures, letters and words “31st day of July, 1999”, the figures, letters and words “31st day of July, 1993” shall be substituted.

R. VENKATARAMAN,
President.

V. S. RAMA DEVI,
Secy. to the Govt. of India.
MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 30th July, 1990/Strava 8, 1912 (Saka)

THE CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION OF SMUGGLING ACTIVITIES (AMENDMENT) ORDINANCE, 1990

No. 5 of 1990

Promulgated by the President in the Forty-first Year of the Republic of India.

An Ordinance further to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action:

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1990.

(2) It shall come into force at once.

(1)
2. In the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, in section 9, in sub-section (1), for the figures, letters and words “31st day of July, 1990”, the figures, letters and words “31st day of July, 1993” shall be substituted.

R. VENKATARAMAN,
President.

V. S. RAMA DEVI,
Secy. to the Govt. of India.
EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

Ministry of Law and Justice

Legislative Department

New Delhi, the 15th October, 1990/Asvina 23, 1912 (Saka)

THE FINANCE (AMENDMENT) ORDINANCE, 1990

No. 6 of 1990

Promulgated by the President in the Forty-first Year of the Republic of India.

An Ordinance to amend the Finance Act, 1990.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Finance (Amendment) Ordinance, 1990.

(2) It shall come into force at once.

(1)
2. In section 2 of the Finance Act, 1930 (hereinafter referred to as the principal Act),—

(a) in sub-section (5), for the words "eight per cent.", the words "fifteen per cent." shall be substituted;

(b) in sub-section (6), for the words "eight per cent.", the words "fifteen per cent." shall be substituted;

(c) in sub-section (7), in the second proviso, for the words "eight per cent.", the words "fifteen per cent." shall be substituted;

(d) in sub-section (8), in the proviso, for the words "eight per cent.", the words "fifteen per cent." shall be substituted.

3. In the First Schedule to the principal Act,—

(a) in Part II, under the heading "Surcharge on income-tax", for the words "eight per cent.", the words "fifteen per cent." shall be substituted;

(b) in Part III,—

(i) in Paragraph A,—

(1) in Sub-Paragraph I, under the heading "Surcharge on income-tax", for the words "eight per cent.", the words "fifteen per cent." shall be substituted;

(2) in Sub-Paragraph II, under the heading "Surcharge on income-tax", for the words "eight per cent.", the words "fifteen per cent." shall be substituted;

(ii) in Paragraph B, under the heading "Surcharge on income-tax", for the words "eight per cent.", the words "fifteen per cent." shall be substituted;

(iii) in Paragraph C,—

(1) in Sub-Paragraph I, under the heading "Surcharge on income-tax", for the words "eight per cent.", the words "fifteen per cent." shall be substituted;

(2) in Sub-Paragraph II, under the heading "Surcharge on income-tax", for the words "eight per cent.", the words "fifteen per cent." shall be substituted;

(iv) in Paragraph D, under the heading "Surcharge on income-tax", for the words "eight per cent.", the words "fifteen per cent." shall be substituted;

(v) in Paragraph E, under the heading "Surcharge on income-tax", for the words "eight per cent.", the words "fifteen per cent." shall be substituted.
4. Notwithstanding anything contained in the Income-tax Act, 1961, the surcharge payable under Part III of the First Schedule to the principal Act, as amended by this Ordinance, in respect of the instalment of advance tax paid or payable on the 15th day of September, 1996, shall be payable on or before the 15th day of November, 1996.

Payment of surcharge at enhanced rate on advance tax.

R. VENKATARAMAN,
President.

V. S. RAMA DEVI,
Secy. to the Govt. of India.
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 15th October, 1990/Asvina 23, 1912 (Saka)

THE RESERVE BANK OF INDIA (AMENDMENT) ORDINANCE, 1990

No. 7 of 1990

Promulgated by the President in the Forty-first Year of
the Republic of India.

An Ordinance further to amend the Reserve Bank of India
Act, 1934.

WHEREAS Parliament is not in session and the President is satisfied
that circumstances exist which render it necessary for him to take im-
mediate action;

Now, THEREFORE, in exercise of the power conferred by clause (1) of
article 123 of the Constitution, the President is pleased to promulgate the
following Ordinance:

1. (1) This Ordinance may be called the Reserve Bank of India
(Amendment) Ordinance, 1990.

(2) It shall come into force at once.

(1)
2. In the Reserve Bank of India Act, 1934, in section 33, in sub-section (4), for the figures and words "0.118459 grammes of fine gold per rupee", the words "a price not exceeding the international market price for the time being obtaining" shall be substituted.

R. VENKATARAMA
Pres

V. S. RAMA DEVI
Secy. to the Govt. of India
MINISTRY OF LAW AND JUSTICE  
(Legislative Department)  

New Delhi, the 15th October, 1990/Asvina 23, 1912 (Saka)  

THE FINANCE (SECOND AMENDMENT) ORDINANCE, 1990  
No. 8 of 1990  

Promulgated by the President in the Forty-first Year of the Republic of India.  

An Ordinance further to amend the Finance Act, 1990.  

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;  

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—  

1. (1) This Ordinance may be called the Finance (Second Amendment) Ordinance, 1990.  

(2) It shall come into force at once.  

2. In section 2 of the Finance Act, 1990 (hereinafter referred to as the principal Act),—  

(a) to sub-section (5), the following proviso shall be added, namely:—  

‘Provided that in the case of a contractor, being a domestic company, the provisions of this sub-section shall have effect, as
if for the words "eight per cent.", the words "fifteen per cent." had been substituted;

(b) to sub-section (6), the following proviso shall be added, namely:

"Provided that in the case of a buyer, being a domestic company, the provisions of this sub-section shall have effect, as if for the words "eight per cent.", the words "fifteen per cent." had been substituted;"

(c) in sub-section (7), in the second proviso, for the words "eight per cent.", the words "fifteen per cent." shall be substituted.

3. In the First Schedule to the principal Act,—

(a) in Part II, for the heading "Surcharge on income-tax" and the entries thereunder, the following shall be substituted, namely:

"Surcharge on income-tax"

The amount of income-tax deducted in accordance with the provisions of—

(a) sub-item (a) of item 1 of this Part shall be increased by a surcharge for purposes of the Union calculated at the rate of eight per cent. of such income-tax, and

(b) sub-item (a) of item 2 of this Part shall be increased by a surcharge calculated at the rate of fifteen per cent. of such income-tax."

(b) in Part III, in Paragraph E, under the heading "Surcharge on income-tax", for the words "eight per cent.", the words "fifteen per cent." shall be substituted.

4. Notwithstanding anything contained in the Income-tax Act, 1961 the surcharge payable under Part III of the First Schedule to the principal Act, as amended by this Ordinance, in respect of the instalment of advance tax paid or payable on the 15th day of September, 1990, shall be payable on or before the 15th day of November, 1990.

R. VENKATARAMAN
President

V. S. RAMA DEV
Secy. to the Govt. of Indi

Note.—The Finance (Amendment) Ordinance, 1990 (Ord, No. 5 of 1990 has been withdrawn by an Order of the President under article 123, dated 15th October, 1990.

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINT ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1990
H. No. 1

ART II—Sec. 1

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Act, 1961, 4180

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RAMAN, President.

DEVI, India.


REGISTERED No. D(DN)127/88

भारत का राजपत्र

The Gazette of India

EXTRAORDINARY

भाग II—खण 1

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 53] NAII DILSA, NEW DELHI, FRIDAY, OCTOBER 19, 1990/ASWINA 27, 1912

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 19th October, 1990/Aswina 27, 1912 (Saka)

THE RAM JANMA BHUMI-BABRI MASJID (ACQUISITION OF AREA) ORDINANCE, 1990

No. 9 of 1990

Promulgated by the President in the Forty-first Year of the Republic of India.

An Ordinance to provide for the acquisition of the Ram Janma Bhumi-Babri Masjid area and for matters connected therewith or incidental thereo.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

Preliminary

1. (1) This Ordinance may be called the Ram Janma Bhumi-Babri Masjid (Acquisition of Area) Ordinance, 1990.

(2) It shall come into force at once.

(1)
2. In this Ordinance, unless the context otherwise requires,—

(a) "area" means the area (including all the buildings, structures or other properties comprised therein) specified in Schedule;

(b) "authorised person" means a person or body of persons appointed by the Central Government under sub-section (1) of section 7.

CHAPTER II

ACQUISITION OF RAM JANMA BHUMI-BABRI MASJID AREA

3. On and from the commencement of this Ordinance, the right, title and interest in relation to the Ram Janma Bhumi-Babri Masjid area as specified in the Schedule shall, by virtue of this Ordinance, be transferred to, and vest in, the Central Government.

4. (1) The area shall be deemed to include all assets, rights, leaseholds, powers, authority and privileges and all property, movable and immovable, including lands, buildings, structures, shops of whatever nature or other properties and all other rights and interests arising out of such properties as were immediately before the commencement of this Ordinance in the ownership, possession, power or control of a person and all registers, maps, plans, drawings, records of survey and other documents of whatever nature relating thereto.

(2) All properties aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and other encumbrances affecting them and any attachment, injunction, decree or order of any court or tribunal or other authority restricting the use of such properties in any manner or appointing any receiver with respect of the whole or any part of such properties shall be deemed to have been withdrawn.

(3) If, on the commencement of this Ordinance, any suit, appeal or other proceeding, of whatever nature, in relation to any property which has vested in the Central Government under section 3, is pending before any court, tribunal or other authority, the same shall abate.

5. (1) The Central Government may take all necessary steps to secure possession of the area which is vested in that Government under section 3.

(2) On the vesting of the area in the Central Government under section 3, the person in charge of the management of the area immediately before such vesting shall be bound to deliver to the Central Government or the authorised person, all assets, registers and other documents in their custody relating to such area.
6. (1) Notwithstanding anything contained in sections 3, 4, 5 and 7, the Central Government may, if it is satisfied that any authority or other body is willing to comply or has complied with such terms and conditions as that Government may think fit to impose, direct by notice, or any part thereof, instead of continuing to vest in the Central Government, vest in that authority or body either on the date of the notification or on such earlier or later date (not being a date earlier than the commencement of this Ordinance) as may be specified in the notification.

(2) When the right, title and interest in relation to the area or part thereof vest in the authority or body referred to in sub-section (1), all the rights of the Central Government in relation to such area or part shall, on and from the date of such vesting, be deemed to have become the rights of that authority or body.

(3) The provisions of clause (b) of section 2 and sections 3, 4, 5, 7 and 10 shall, so far as may be, apply in relation to such authority or body as they apply in relation to the Central Government and for this purpose references therein to the "Central Government" shall be construed as references to such authority or body.

CHAPTER III

MANAGEMENT AND ADMINISTRATION OF PROPERTY

7. (1) Notwithstanding anything contained in any contract or instrument or order of any court, tribunal or other authority to the contrary, on and from the commencement of this Ordinance, the property vested in the Central Government under section 3 shall be managed by the Central Government or by a person or body of persons authorised by that Government in this behalf.

(2) In managing the property vested in the Central Government under section 3, the Central Government or the authorised person shall ensure that the position existing immediately before the commencement of this Ordinance is maintained.

CHAPTER IV

MISCELLANEOUS

8. (1) The owner of any land, building, structure or other property comprised in the area specified in the Schedule shall be given by the Central Government, for the transfer to and vesting in that Government under section 3 of that land, building, structure or other property, in cash an amount equivalent to the market value of the land, building, structure or other property.
(2) The owner or any person having a claim against the owner may make a claim to the Central Government or to a person authorised by that Government in that behalf within a period of ninety days from the date of commencement of this Ordinance:

Provided that if the Central Government or the person so authorised is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of ninety days, the Central Government or the person so authorised may entertain the claim within a further period of ninety days and not thereafter.

9. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any law other than this Ordinance or any decree or order of any court, tribunal or other authority.

10. No suit, prosecution or other legal proceeding shall lie against the Central Government, authorised person or any of the officers or other employees of that Government or person for anything which is in good faith done or intended to be done under this Ordinance.

11. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court shall take cognizance of any offence under this Ordinance except on a complaint, in writing, made by the Central Government or any officer authorised in this behalf by that Government.

12. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

(2) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in so modified form or be of no effect, as the case may be; so, however, any such modification or annulment shall be without prejudice to validity of anything previously done under that rule.
THE SCHEDULE

[See sections 2(a), 3 and 8]

DESCRIPTION OF AREA

All lands, buildings, structures and other properties comprised in the area situated in village Kot Ramechander in Ayodhya in the district of Faizabad of the State of Uttar Pradesh and bounded as follows:

- In the North—by the road which links Hanuman Garhi with Durahi Kunwa.
- In the South—by Khasra Plot No. 172.
- In the West—by Khasra Plot Nos. 1105, 1106 and 1118.
- In the East—by the road in Nazul Plot No. 577.

R. VENKATARAMAN,
President.

V. S. RAMA DEVI,
Secy. to the Govt. of India.
THE RAM JANMA BHUMI-BABRI MASJID (ACQUISITION OF AREA) WITHDRAWAL ORDINANCE, 1990

No. 10 of 1990

Promulgated by the President in the Forty-first Year of the Republic of India.

An Ordinance to withdraw the Ram Janma Bhumi-Babri Masjid (Acquisition of Area) Ordinance, 1990 and for matters connected therewith or incidental thereto.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Ram Janma Bhumi-Babri Masjid (Acquisition of Area) Withdrawal Ordinance, 1990.

(2) It shall be deemed to have come into force on the 19th day of October, 1990.
2. Notwithstanding anything contained in the Ram Janma Bhumi-Babri Masjid (Acquisition of Area) Ordinance, 1990—

(a) the right, title and interest in relation to the Ram Janma Bhumi-Babri Masjid area, as specified in the Schedule to that Ordinance, shall be deemed never to have been transferred to and vested in the Central Government;

(b) any suit, appeal or other proceeding, of whatever nature, in relation to any property comprised in the aforesaid area, pending before any court, tribunal or other authority, shall be deemed never to have abated and such suit, appeal or other proceeding (including the orders or interim orders of any court thereon) shall be deemed to have been restored to the position existing immediately before the commencement of that Ordinance;

(c) the appointment of any receiver in respect of the whole or any part of the aforesaid property shall be deemed never to have been withdrawn; and

(d) any other action taken or thing done under that Ordinance shall be deemed never to have been taken or done.

3. Subject to the provisions of section 2, the Ram Janma Bhumi-Babri Masjid (Acquisition of Area) Ordinance, 1990 is hereby withdrawn.

R. VENKATARAMAN,
President.

K. L. MOHANPURIA,
Additional Secy. to the Govt. of India.
EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 30th March, 1991/Chaitra 9, 1913 (Saka)

THE DELHI MUNICIPAL LAWS (AMENDMENT) ORDINANCE, 1991

No. 1 of 1991

Promulgated by the President in the Forty-second Year of the Republic of India.

An Ordinance further to amend the Delhi Municipal Corporation Act, 1957 and the Punjab Municipal Act, 1911, as in force in New Delhi.

Whereas the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Delhi Municipal Laws (Amendment) Ordinance, 1991.

(2) It shall come into force at once.

(1)
CHAPTER II

Amendment to the Delhi Municipal Corporation Act, 1957

2. In section 129 of the Delhi Municipal Corporation Act, 1957, in sub-section (3), for the portion beginning with the words, figures and letters “commencing on the 1st day of April, 1988” and ending with the words, figures and letters “before the 1st day of April, 1991”, the following shall be substituted, namely:

“commencing on the 1st day of April, 1988, the 1st day of April, 1989 and the 1st day of April, 1990 under sub-section (1), the Commissioner shall give to any person affected by the amendment, notice of not less than one month at any time before the 1st day of April, 1992”

CHAPTER III

Amendment to the Punjab Municipal Act, 1911 as in force in New Delhi

3. In section 67A of the Punjab Municipal Act, 1911, as in force in New Delhi,—

(a) in sub-section (1), for the portion beginning with the words, figures and letters “commencing on the 1st day of April, 1988” and ending with the words, figures and letters “before the 1st day of April, 1991”, the following shall be substituted, namely:

“commencing on the 1st day of April, 1988, the 1st day of April, 1989, the 1st day of April, 1990 and the 1st day of April, 1991 for increasing or reducing, for sufficient reasons, the amount of annual value of any property and of the assessment thereupon, after giving notice, at any time before the 1st day of April, 1992”;

(b) in sub-section (2), in clause (b), for the words, figures and letters “the 1st day of April, 1889 and the 1st day of April, 1990”, the words, figures and letters “the 1st day of April, 1989, the 1st day of April, 1990 and the 1st day of April, 1991” shall be substituted.

R. VENKATARAMAN,
President.

K. L. MOHANPURIA,
Additional Secretary to the Govt. of India.

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1991
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 18th April, 1991/Chaitra 28, 1913 (Saka)

THE REPRESENTATION OF THE PEOPLE
(AMENDMENT) ORDINANCE, 1991

No. 2 of 1991

Promulgated by the President in the Forty-second year of the Republic of India.

An Ordinance further to amend the Representation of the People Act 1951.

WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Representation of the People (Amendment) Ordinance, 1991.

(2) It shall come into force at once.
2. In the Representation of the People Act, 1951, for sections 73A and 73AA, the following section shall be substituted, namely:

"73A. Notwithstanding anything contained in section 73 or in any other provision of this Act, with respect to the general election for the purpose of constituting a new House of the People upon dissolution of the Ninth House of the People,—

(a) the notification under section 73 may be issued without taking into account the Parliamentary constituencies in the State of Jammu and Kashmir; and

(b) the Election Commission may take the steps in relation to elections from the Parliamentary constituencies in the State of Jammu and Kashmir separately and in such manner and on such date or dates as it may deem appropriate."

R. VENKATARAMAN,
President.

K. L. MOHANPURIA,
Additional Secretary to the Govt. of India.
EXTRAORDINARY
PART II—Section 1
PUBLISHED BY AUTHORITY
No. 35] NEW DELHI, FRIDAY, APRIL 19, 1991/CHAITRA 29, 1913
THE CONSTITUTION (SCHEDULED TRIBES) ORDERS (AMENDMENT) ORDINANCE, 1991
No. 3 of 1991

Promulgated by the President in the Forty-second Year of the Republic of India.

An Ordinance to provide for the inclusion of certain tribes in the lists of Scheduled Tribes specified in relation to the States of Karnataka and Jammu and Kashmir.

WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Constitution (Scheduled Tribes) Orders (Amendment) Ordinance, 1991.

(2) It shall come into force at once.
2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in "Part VI—Karnataka", in item 38, the following words shall be included at the end, namely:—

"Naik, Nayak, Beda, Bedar and Valmiki".

3. In the Schedule to the Constitution (Jammu and Kashmir) Scheduled Tribes Order, 1989, after item 8, the following items shall be inserted, namely:—

9. Gujjar
10. Bakarwal”.

R. VENKATARAMAN,
President.

B. S. SALUJA,
Joint Secretary to the Govt. of India.
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 2nd May, 1991/Vaisakha 12, 1913 (Saka)

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ORDINANCE, 1991

No. 4 of 1991

Promulgated by the President in the Forty-second Year of the Republic of India.


WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Code of Criminal Procedure (Amendment) Ordinance, 1991.

(2) It shall come into force at once.

(1)
2. In section 197 of the Code of Criminal Procedure, 1973,—

(a) in sub-section (I), to clause (b), the following proviso shall be added, namely:—

"Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression "State Government" occurring therein, the expression "Central Government" were substituted;"

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

"(3A) Notwithstanding anything contained in sub-section (3), no court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government."

R. VENKATARAMAN,
President.

K. L. MOHANSPURIA,
Additional Secretary to the Govt. of India.
THE TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION) AMENDMENT ORDINANCE, 1991

No. 5 of 1991

Promulgated by the President in the Forty-second Year of the Republic of India.

An Ordinance further to amend the Terrorist and Disruptive Activities (Prevention) Act, 1987.

WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

I. (1) This Ordinance may be called the Terrorist and Disruptive Activities (Prevention) Amendment Ordinance, 1991.

(2) It shall come into force at once.

(1)
THE GAZETTE OF INDIA EXTRAORDINARY [P:ASE II—Sec. 1]

Amendment of section 1 of Act 28 of 1987.

2. In the Terrorist and Disruptive Activities (Prevention) Act, 1987, in sub-section (4) of section 1, for the words "four years", the words "six years" shall be substituted.

R. VENKATARAMAN,
President.

K. L. MOHANPURIA.
Additional Secretary to the Govt. of India.
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 15th June, 1991/ Jyaistha 25, 1913 (Saka)

THE CONSUMER PROTECTION (AMENDMENT) ORDINANCE, 1991

No. 6 of 1991

Promulgated by the President in the Forty-second Year of the Republic of India.

An Ordinance to amend the Consumer Protection Act, 1986.

WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Consumer Protection (Amendment) Ordinance, 1991.

(2) It shall come into force at once.
2. In section 14 of the Consumer Protection Act, 1986 (hereinafter referred to as the principal Act), for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) Every proceeding referred to in sub-section (1) shall be conducted by the President of the District Forum and at least one member thereof sitting together:

Provided that where the member, for any reason, is unable to conduct the proceeding till it is completed, the President and the other member shall conduct such proceeding de novo.

(2A) Every order made by the District Forum under sub-section (1) shall be signed by its President and the member or members who conducted the proceeding:

Provided that where the proceeding is conducted by the President and one member and they differ on any point or points, they shall state the point or points on which they differ and refer the same to the other member for hearing on such point or points and such point or points shall be decided according to the opinion of that other member.”.

3. After section 18 of the principal Act, the following section shall be inserted, namely:—

"18A. When the office of the President of the District Forum or of the State Commission, as the case may be, is vacant or when any such President is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such person, who is qualified to be appointed as President of the District Forum or, as the case may be, of the State Commission, as the State Government may appoint for the purpose.”.

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

"29A. No act or proceeding of the District Forum, State Commission or the National Commission shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.”.

5. Notwithstanding anything contained in any law or any judgment, decree or order of any court or tribunal or other authority, any order made by the District Forum or the State Commission under the principal Act, which would have been validly made if the amendments made
to the principal Act by this Ordinance were in force on the date of such order, shall be deemed to have been validly made as if the amendments made to the principal Act by this Ordinance were in force at all material times when such order was made.

R. VENKATARAMAN,
President.

K. L. MOHANPURIA,
Additional Secretary to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 20th August, 1991/Sravana 29, 1913 (Saka)

THE CONSTITUTION (SCHEDULED TRIBES) ORDER
(SECOND AMENDMENT) ORDINANCE, 1991

No. 7 of 1991

Promulgated by the President in the Forty-second Year of the Republic of India.

An Ordinance to provide for the inclusion of certain tribes in the list of Scheduled Tribes specified in relation to the State of Karnataka.

Whereas a Bill to provide for the inclusion of certain tribes in the list of Scheduled Tribes specified in relation to the State of Karnataka has been passed by the House of People;

And whereas the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Constitution (Scheduled Tribes) Order (Second Amendment) Ordinance, 1991.

(2) It shall come into force at once.
2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in "Part VI—Karnataka", in item 38, the following shall be inserted at the end, namely:

"Naik, Nayak, Beda, Bedar and Valmiki".

R. VENKATARAMAN,
President.

V. S. RAMA DEVI,
Secy. to the Govt. of India.
THE MONOPOLIES AND RESTRICTIVE TRADE PRACTICES (AMENDMENT) ORDINANCE, 1991

No. 8 of 1991

Promulgated by the President in the Forty-second Year of the Republic of India.

An Ordinance further to amend the Monopolies and Restrictive Trade Practices Act, 1969 and the Companies Act, 1956.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Monopolies and Restrictive Trade Practices (Amendment) Ordinance, 1991.

(2) It shall come into force at once.
2. In section 2 of the Monopolies and Restrictive Trade Practices Act, 1969 (hereinafter referred to as the principal Act),—

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

"(ii) shares and stocks including issue of shares before allotment;"

(b) clause (q) shall be omitted;

(c) in clause (r),—

(i) after the word "insurance", the words "chit fund, real estate," shall be inserted;

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

'Explanation.—For the removal of doubts, it is hereby declared that any dealings in real estate shall be included and shall be deemed always to have been included within the definition of "service";'

(d) clause (w) shall be omitted.

3. In section 10 of the principal Act, in clause (b), after the words "the Central Government", the words "or upon an application made to it by the Director General" shall be inserted.

4. In section 11 of the principal Act,—

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

"(1) The Commission may, before issuing any process requiring the attendance of the person against whom an inquiry (other than an inquiry upon an application by the Director General) may be made under section 10, by an order, require the Director General to make, or cause to be made, a preliminary investigation in such manner as it may direct and submit a report to the Commission to enable it to satisfy itself as to whether or not the matter requires to be inquired into;"

(b) in sub-section (2), the words, brackets, figures and letter "sub-clause (iii) of clause (a) of" shall be omitted.

5. In section 12 of the principal Act,—

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

"(f) the appearance of parties and consequence of non-appearance;"

(b) in sub-section (2), for the words and figures "and Chapter XXXV of the Code of Criminal Procedure, 1888", the words and figures "and Chapter XXVI of the Code of Criminal Procedure, 1973" shall be substituted.
6. In Chapter III of the principal Act,—

(a) Part A shall be omitted;

(b) the word and letter "Part B" occurring before section 27 shall be omitted.

7. In section 27 of the principal Act, in sub-section (1), for the portion beginning with the words "Notwithstanding anything" and ending with the words "for an inquiry", the following shall be substituted, namely:

"Notwithstanding anything contained in this Act or in any other law for the time being in force, the Commission may,—

(i) upon receiving a complaint of facts from any trade association or from any consumer or a registered consumers' association, whether such consumer is a member of that consumers' association or not, or

(ii) upon a reference made to it by the Central Government or a State Government, or

(iii) upon its own knowledge or information,

if it is of opinion that the working of an undertaking is prejudicial to the public interest, or has led, or is leading, or is likely to lead, to the adoption of any monopolistic or restrictive trade practices, inquire into".

8. In section 27A of the principal Act, in sub-section (1), for the portion beginning with the words "Notwithstanding anything" and ending with the words "for an inquiry", the following shall be substituted, namely:

"Notwithstanding anything contained in this Act or in any other law for the time being in force, the Commission may,—

(i) upon receiving a complaint of facts from any trade association or from any consumer or a registered consumers' association, whether such consumer is a member of that consumers' association or not, or

(ii) upon a reference made to it by the Central Government or a State Government, or

(iii) upon its own knowledge or information,

if it is of opinion that the continuance of inter-connection of an undertaking (hereinafter in this section referred to as the principal undertaking) with any other undertaking is detrimental to—

(a) the interests of the principal undertaking; or

(b) the future development of the principal undertaking; or

(c) the steady growth of the industry to which the principal undertaking pertains; or

(d) the public interest, inquire into".
9. Part C of Chapter III of the principal Act shall be omitted.

10. Chapter III-A of the principal Act shall be omitted.

11. In section 31 of the principal Act, in sub-section (1), in the proviso, after the words “Commission receives”, the words “any application from the Director General or” and after the words “it may”, the words “on such application or” shall be inserted.

12. In section 36A of the principal Act,—

(a) for the portion beginning with the words “adopts one or more” and ending with the words “or otherwise”, the following shall be substituted, namely:—

“adopts any unfair method or unfair or deceptive practice including any of the following practices”;

(b) in clause (1), in sub-clause (i), after the word “quality”, the word “quantity,” shall be inserted.

13. For section 36C of the principal Act, the following section shall be substituted, namely:—

“36C. The Commission may, before issuing any process requiring the attendance of the person against whom an inquiry (other than an inquiry upon an application by the Director General) may be made under section 36B, by an order, require the Director General to make, or cause to be made, a preliminary investigation in such manner as it may direct and submit a report to the Commission, for the purpose of satisfying itself that the matter requires to be inquired into.”

14. In section 36D of the principal Act, in sub-section (1),—

(a) in clause (a), the word “and” occurring at the end shall be omitted;

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

“(c) any information, statement or advertisement relating to such unfair trade practice shall be disclosed, issued or published, as the case may be, in such manner as may be specified in the order.”

15. Section 45 of the principal Act shall be omitted.

16. In section 46 of the principal Act, the words and figures “section 22 or section 23 or section 24 or” shall be omitted.

17. Section 47 of the principal Act shall be omitted.
18. In section 48 of the principal Act, sub-section (2) shall be omitted.

19. For section 48B of the principal Act, the following section shall be substituted, namely:

"48B. (1) Every person who exercises any voting right in respect of any share in contravention of any order of the Central Government referred to in sub-section (1) of section 27B shall be punishable with imprisonment for a term which may extend to five years, and shall also be liable to fine.

(2) If any company gives effect to any voting or other right exercised in relation to any share held in contravention of an order of the Central Government referred to in sub-section (1) of section 27B, the company shall be punishable with fine which may extend to five thousand rupees, and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both."

20. In section 48C of the principal Act, for the words "which may extend to three years, or with fine which may extend to ten thousand rupees, or with both", the following shall be substituted, namely:

"which shall not be less than six months but which may extend to three years and with fine which may extend to ten lakhs rupees;

Provided that the court may, for reasons to be recorded in writing, impose a sentence of imprisonment for a term lesser than the minimum term specified in this section.".

21. In section 50 of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:

"(1) A person, who is deemed under section 13 to be guilty of an offence under this Act, shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to fifty thousand rupees, or with both, and where the offence is a continuing one, with a further fine which may extend to five thousand rupees for every day, after the first, during which such contravention continues.

(2) If any person contravenes, without any reasonable excuse, any order made by the Central Government under section 31 or any order made by the Commission under section 37, he shall be punishable with imprisonment for a term which shall not be less than—

(a) in the case of the first offence, six months but not more than three years, and

(b) in the case of any second or subsequent offence in relation to the goods or services in respect of which the first offence was committed, two years but not more than seven years.
and, in either case, where the contravention is a continuing one, also with fine which may extend to five thousand rupees for every day, after the first, during which such contravention continues:

Provided that the court may, for reasons to be recorded in writing, impose a sentence of imprisonment for a term lesser than the minimum term specified in this sub-section.

22. After section 53 of the principal Act, the following section shall be inserted, namely:

"53A. The Commission may, for reasons to be recorded in writing, either before or after the institution of proceedings, compound any offence under section 48C or section 50 relating to contravention of any order made by it."

23. In section 54 of the principal Act—

(a) sub-section (2) shall be omitted;

(b) in sub-section (3), the words, brackets and figure "or any term of a scheme of finance, as modified under sub-section (2)," shall be omitted.

24. In section 55 of the principal Act, after the words "the Commission under", the words, figures and letter "section 12A or" shall be inserted.

25. In section 67 of the principal Act, in sub-section (2), clauses (ac), (ba) and (g) shall be omitted.

26. The Schedule to the principal Act shall be omitted.

PART II

Amendments to the Companies Act, 1956

27. In the Companies Act, 1956 (hereinafter referred to as the Companies Act), after section 108, the following sections shall be inserted, namely:

"108A. (1) Except with the previous approval of the Central Government, no individual, firm, group, constituent of a group, body corporate or bodies corporate under the same management, shall jointly or severally acquire or agree to acquire, whether in his or its own name or in the name of any other person, any equity shares in a public company, or a private company which is a subsidiary of a public company, if the total nominal value of the equity shares intended to be so acquired exceeds, or would, together with the total nominal value of any equity shares already held in the company by such individual, firm, group, constituent of a group, body corporate, or bodies corporate under the same management, exceed twenty-five per cent. of the paid-up equity share capital of such company.

(2) Where any individual, firm, group, constituent of a group, body corporate or bodies corporate under the same management
(hereinafter in this Act referred to as the acquirer), is prohibited, by sub-section (1) from acquiring or agreeing to acquire except with the previous approval of the Central Government, any share of a public company or a private company which is a subsidiary of a public company, no—

(a) company in which not less than fifty-one per cent. of the share capital is held by the Central Government; or

(b) corporation (not being a company) established by or under any Central Act; or

(c) financial institution,

shall transfer or agree to transfer any share to such acquirer unless such acquirer has obtained the previous approval of the Central Government for the acquisition, or agreement for the acquisition, of such share.

108B. (1) Every body corporate, or bodies corporate under the same management, holding, whether singly or in the aggregate, ten per cent. or more of the nominal value of the subscribed equity share capital of any other company, shall, before transferring one or more of such shares, give to the Central Government an intimation of its or their proposal to transfer such share, and every such intimation shall include a statement as to the particulars of the share proposed to be transferred, the name and address of the person to whom the share is proposed to be transferred, the share holding, if any, of the proposed transeree in the concerned company and such other particulars as may be prescribed.

(2) Where, on receipt of an intimation given under sub-section (1) or otherwise, the Central Government is satisfied that as a result of such transfer, a change in the composition of the Board of directors of the company is likely to take place and that such change would be prejudicial to the interests of the company or to the public interest, it may, by order, direct that—

(a) no such share shall be transferred to the proposed transeree:

Provided that no such order shall preclude the body corporate or bodies corporate from intimating, in accordance with the provisions of sub-section (1), to the Central Government its or their proposal to transfer the share to any other person, or

(b) where such share is held in a company engaged in any industry specified in Schedule XV, such share shall be transferred to the Central Government or to such corporation owned or controlled by that Government as may be specified in the direction.

(3) Where a direction is made by the Central Government under clause (b) of sub-section (2), the share referred to in such direction shall stand transferred to the Central Government or to the corporation specified therein, and the Central Government or the specified corporation, as the case may be, shall pay, in cash, to the body corporate or bodies corporate from which such share stands
transferred, an amount equal to the market value of such share, within the time specified in sub-section (4).

Explanation.—In this sub-section, "market value" means, in the case of a share which is quoted on any recognised stock exchange, the value quoted at such stock exchange on the date immediately preceding the date on which the direction is made, and, in any other case, such value as may be mutually agreed upon between the holder of the share and the Central Government or the specified corporation, as the case may be, or in the absence of such agreement, as may be determined by the court.

(4) The market value referred to in sub-section (3) shall be given forthwith, where there is no dispute as to such value or where such value has been mutually agreed upon, but where there is a dispute as to the market value, such value as is estimated by the Central Government or the corporation, as the case may be, shall be given forthwith and the balance, if any, shall be given within thirty days from the date when the market value is determined by the court.

(5) If the Central Government does not make any direction under sub-section (2) within sixty days from the date of receipt by it of the intimation given under sub-section (1), the provisions contained in sub-section (2) with regard to the transfer of such share shall not apply.

198C. No body corporate, or bodies corporate under the same management, which holds, or hold in the aggregate, ten per cent. or more of the nominal value of the equity share capital of a foreign company, having an established place of business in India, shall transfer any share in such foreign company to any citizen of India or any body corporate incorporated in India except with the previous approval of the Central Government and such previous approval shall not be refused unless the Central Government is of opinion that such transfer would be prejudicial to the public interest.

198D. (1) Where the Central Government is satisfied that as a result of the transfer of any share or block of shares of a company, a change in the controlling interest of the company is likely to take place and that such change would be prejudicial to the interests of the company or to the public interest, that Government may direct the company not to give effect to the transfer of any such share or block of shares and—

(a) where the transfer of such share or block of shares has already been registered, not to permit the transferee or any nominee or proxy of the transferee, to exercise any voting or other rights attaching to such share or block of shares; and

(b) where the transfer of such share or block of shares has not been registered, not to permit any nominee or proxy
of the transferor to exercise any voting or other rights attaching to such share or block of shares.

(2) Where any direction is given by the Central Government under sub-section (1), the share or the block of shares referred to therein shall stand retransferred to the person from whom it was acquired, and thereupon the amount paid by the transferee for the acquisition of such share or block of shares shall be refunded to him by the person to whom such share or block of shares stands or stand retransferred.

(3) If the refund referred to in sub-section (2) is not made within the period of thirty days from the date of the direction referred to in sub-section (1), the Central Government shall, on the application of the person entitled to get the refund, direct, by order, the refund of such amount and such order may be enforced as if it were a decree made by a civil court.

(4) The person to whom any share or block of shares stands or stand retransferred under sub-section (2) shall, on making refund under sub-section (2) or sub-section (3), be eligible to exercise voting or other rights attaching to such share or block of shares.

108E. Every request made to the Central Government for according its approval to the proposal for the acquisition of any share referred to in section 108A or the transfer of any share referred to in section 108B shall be presumed to have been granted unless, within a period of sixty days from the date of receipt of such request, the Central Government communicates to the person by whom the request was made, that the approval prayed for cannot be granted.

108F. Nothing contained in section 108A [except sub-section (2) thereof] shall apply to the transfer of any share to, and nothing in section 108B or section 108C or section 108D shall apply to the transfer of any share by—

(a) any company in which not less than fifty-one per cent. of the share capital is held by the Central Government;

(b) any corporation (not being a company) established by or under any Central Act;

(c) any financial institution.

108G. The provisions of sections 108A to 108F (both inclusive) shall apply to the acquisition or transfer of shares or share capital by, or to, an individual, firm, group, constituent of a group, body corporate, or bodies corporate under the same management, who or which—

(a) is the owner in relation to a dominant undertaking, or

(b) would be, as a result of such acquisition or transfer of shares or share capital, the owner of a dominant undertaking.
108A. The expressions, "group", "same management", "financial institution", "dominant undertaking" and "owner" used in sections 108A to 108G (both inclusive), shall have the meanings respectively assigned to them in the Monopolies and Restrictive Trade Practices Act, 1969.

108-i. (1) Any person who acquires any share in contravention of the provisions of section 108A shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.

(2) (a) Every body corporate which makes any transfer of shares without giving any intimation as required by section 106B, shall be punishable with fine which may extend to five thousand rupees.

(b) Where any contravention of the provisions of section 108A has been made by a company, every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.

(3) (a) Every body corporate which makes any transfer of shares in contravention of the provisions of section 108C, shall be punishable with fine which may extend to five thousand rupees.

(b) Where any contravention of the provisions of section 108C has been made by a company, every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.

(4) (a) Every person who transfers any share in contravention of any order made by the Central Government under section 108B, or gives effect to any transfer of shares made in contravention of any direction made by the Central Government under section 108D, or who exercises any voting right in respect of any share in contravention of any direction made by the Central Government under section 108D, shall be punishable with imprisonment for a term which may extend to five years, and shall also be liable to fine.

(b) If any company gives effect to any voting or other right exercised in relation to any share acquired in contravention of the provisions of section 108B, or which gives effect to any voting right in contravention of any direction made by the Central Government under section 108D, the company shall be punishable with fine which may extend to five thousand rupees, and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both."
28. After Schedule XIV to the Companies Act, the following Schedule shall be inserted, namely:

"SCHEDULE XV

[See section 108B(2) (b)]

1. Arms and ammunition and allied items of defence equipment, defence aircrafts and warships.
2. Atomic energy.
3. Coal and lignite.
5. Mining of iron ore, manganese ore, chrome ore, gypsum, sulphur, gold and diamond.
6. Mining of copper, lead, zinc, tin, molybdenum and wolfram.
8. Railway transport."

R. VENKATARAMAN,
President.

K. L. MOHANPURIA,
Additional Secretary to the Govt. of India.
Repealed by Act 13 of 1932, s. 4

The Gazette of India

EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 76] NEW DELHI, SATURDAY, DECEMBER 28, 1991/PUSA 7, 1913

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 28th December, 1991/Pusa 7, 1913 (Saka)

THE COPYRIGHT (AMENDMENT) ORDINANCE, 1991

No. 9 of 1991

Promulgated by the President in the Forty-second Year of the Republic of India.

An Ordinance further to amend the Copyright Act, 1957.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Copyright (Amendment) Ordinance, 1991.

(2) It shall come into force at once.

2. In Chapter V of the Copyright Act, 1957, for the words "fifty years", wherever they occur, the words "sixty years" shall be substituted.
3. For the removal of doubts, it is hereby declared that copyright shall not subsist by virtue of this Ordinance in any work in which copyright did not subsist immediately before the commencement of this Ordinance.

R. VENKATARAMAN,
President.

K. L. MOHANPURIA,
Additional Secretary to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 4th January, 1992/Pausa 14, 1913 (Saka)

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ORDINANCE, 1992

No. 1 of 1992

Promulgated by the President in Forty-second Year of the Republic of India.

An Ordinance further to amend the Representation of the People Act, 1951.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Representation of the People (Amendment) Ordinance, 1992.

(2) It shall come into force at once.
2. In the Representation of the People Act, 1951, for section 52, the following section shall be substituted, namely:—

52. If a candidate, set up by a recognised political party,—

(a) dies at any time after 11 A.M. on the last date for making nominations and his nomination is found valid on scrutiny under section 36; or

(b) whose nomination has been found valid on scrutiny under section 36 and who has not withdrawn his candidature under section 37, dies,

and in either case, a report of his death is received at any time before the publication of the list of contesting candidates under section 38; or

(c) dies as a contesting candidate and a report of his death is received before the commencement of the poll,

the returning officer shall, upon being satisfied about the fact of the death of the candidate, by order, countermand the poll and report the fact to the Election Commission and also to the appropriate authority and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election:

Provided that no order for countermanding a poll should be made in a case referred to in clause (a) except after the scrutiny of all the nominations including the nomination of the deceased candidate:

Provided further that no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of the countermanding of the poll:

Provided also that no person who has given a notice of withdrawal of his candidature under sub-section (1) of section 37 before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding.

Explanation.—For the purposes of this section, ‘recognised political party’ means a political party recognised by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968.

R. VENKATARAMAN,
President.

V. S. RAMA DEVI,
Secy. to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 19th January, 1992; Pusa 29, 1913

THE REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT) ORDINANCE, 1992

No. 2 of 1992

Promulgated by the President in the Forty-second Year of the Republic of India.

An Ordinance further to amend the Representation of the People Act, 1951.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Representation of the People (Second Amendment) Ordinance 1992.

(2) It shall come into force at once.
2. After section 4 of the Indian Red Cross Society Act, 1920 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely:—

"4A. The President of India shall be the President of the Society (hereinafter referred to as the President).

4B. (1) Notwithstanding anything contained in section 3, the Managing Body shall consist of the following members, namely:—

(a) a Chairman to be nominated by the President for such term as he may deem fit;

(b) six members to be nominated by the President for such term as he may deem fit;

(c) twelve members to be elected by the State Branch Committees for a term of two years in accordance with the rules made by the Managing Body under section 5:

Provided that not more than one member shall be elected by any State Branch Committee:

Provided further that no member, elected under this section, shall hold office continuously for more than two terms.

(2) The Managing Body existing immediately before the commencement of the Indian Red Cross Society (Amendment) Ordinance, 1992 shall cease to exist and the Chairman and all the members of the said Body shall be deemed to have vacated their offices on such commencement and the Managing Body shall be reconstituted within a period of six months from such commencement in accordance with the provisions of sub-section (1) and until it is so reconstituted, the President may authorise any person or body of persons to exercise and discharge all the powers, functions and duties which may, under the provisions of this Act or the rules made thereunder, be exercised or discharged by or on behalf of the Managing Body.

4C. (1) The Managing Body shall, with the previous approval of the President, appoint a Secretary-General and a Treasurer of the Society.

(2) The term of office and the conditions of service of the Secretary-General and the Treasurer shall be such as the Managing Body may determine by rules made under section 5:

Provided that the term of office and conditions of service of the Secretary-General and the Treasurer may be varied in like manner by the Managing Body.

(3) Notwithstanding anything contained in any contract or agreement and notwithstanding any judgment, decree or order of any court, tribunal or authority or anything contained in any other provision of this Act or the rules made thereunder, the term of office and conditions of service of any person appointed as the Secretary-General of the Society at any time before the commencement of the Indian Red Cross Society (Amendment) Ordinance, 1992
may be varied by the Managing Body with the previous approval of the President.

4D. (1) The powers and functions of the Chairman shall be—

(a) to preside over the meetings of the Managing Body and all other Committees set up by the Managing Body of which he is the Chairman;

(b) to re-appropriate, on the advice of the Treasurer of the Society, budgetary allocation from one major head of account to another major head of account;

(c) to authorise, on the advice of the Treasurer of the Society, expenditure on items not contemplated in the annual Budget of the Society, subject to the availability of funds;

(d) to institute, if necessary, disciplinary proceedings against officers of and above the rank of Deputy Secretary of the Society:

Provided that the final decision on the basis of the disciplinary proceedings so instituted shall be taken,—

(i) in the case of Secretary-General of the Society, with the previous approval of the President;

(ii) in other cases, with the previous approval of the Managing Body.

(2) The powers and functions of the Vice-Chairman shall be,—

(a) to exercise the powers and perform the functions conferred on the Chairman under sub-section (1) or delegated to him under sub-section (3), in the absence of the Chairman on leave or on tour abroad or for any other similar reasons;

(b) to act as ex officio member in all the Committees or Sub-Committees appointed by the Managing Body.

(3) The Chairman and the Vice-Chairman shall, in addition to the powers exercisable by them under sub-sections (1) and (2), exercise such other financial and administrative powers as may be delegated to them by the Managing Body in accordance with rules made by it under section 5.

4E. (1) If, at any time, the President is of opinion—

(a) that there has been gross failure in the management of the affairs of the Society by the Managing Body; or

(b) that the Managing Body is acting in a manner which is prejudicial to carrying out the objectives of the Society,

the President may, by order in writing, supersede the Managing Body for such period, not exceeding six months, as may be specified in the order.

Provided that before issuing an order under this sub-section, the President shall give a reasonable opportunity to the Managing Body to show cause why it should not be superseded and shall
consider the explanations and objections, if any, of the Managing Body.

(2) Upon the issue of an order under sub-section (1) superseding the Managing Body,—

(a) all the members of the Managing Body shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, under the provisions of this Act or the rules made thereunder, be exercised or discharged by or on behalf of the Managing Body, shall, until the Managing Body is re-constituted, be exercised and discharged by such person or body of persons as the President may appoint in this behalf.

(3) On the expiration of the period of supersession specified in the order issued under sub-section (1), the President may extend the period of supersession for such further period, not exceeding six months at a time, as may be recommended by the person or body of persons appointed under clause (b) of sub-section (2):

Provided that the President may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or extended under this sub-section, take such steps as are necessary to re-constitute the Managing Body in accordance with the provisions of section 4B.

3. Section 5 of the principal Act shall be re-numbered as sub-section (1) and—

(a) in sub-section (1) as so re-numbered,—

(i) in the opening portion, for the words "subject to the condition of previous publication", the words "with the previous approval of the President" shall be substituted;

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

"(d) the procedure of election of members by State Branch Committees;",

(iii) for clauses (ee) and (f), the following clauses shall be substituted, namely:—

"(f) the powers exercisable by the Managing Body in supervising the activities of State Branch Committees;

(g) delegation of financial and administrative powers to the Chairman and Vice-Chairman;

(h) disqualifications for membership of the Managing Body;

(i) the term of office and conditions of service of the Secretary-General and the Treasurer and other officers of the Society;

(j) the regulation of the procedure generally of the Society and Managing Body.";
(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) The Central Government shall cause every rule made under this section to be laid as soon as may be after the rule is made before each House of Parliament while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both, Houses of Parliament agree in making any modification in the rule or both Houses agree that the rule should not be made, that rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

4. In section 12 of the principal Act, the words "to regulate its own procedure and constitution," shall be omitted.

R. VENKATARATNAM,
President.

V. S. RAMA DEVI,
Secy. to the Govt. of India.
THE DESTRUCTIVE INSECTS AND PESTS (AMENDMENT AND VALIDATION) ORDINANCE, 1992

No. 4 of 1992

Promulgated by the President in the Forty-second Year of the Republic of India.

An Ordinance further to amend the Destructive Insects And Pests Act, 1914.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Destructive Insects And Pests (Amendment And Validation) Ordinance, 1992.

(2) It shall be deemed to have come into force on the 27th day of October, 1988.

2. In section 3 of the Destructive Insects And Pests Act, 1914 (hereinafter referred to as the principal Act), after sub-section (2), the following sub-section shall be inserted, namely:—

“(7) The Central Government may, by notification under this section, also levy and collect such fees at such rates and in such manner as may be specified therein for making an application for a permit to import, or for making inspection, fumigation, disinfect-
tion, disinfection or supervision of, any article or class of articles or any insect or class of insects under this section.”.

3. (1) Notwithstanding any judgment, decree or order of any court, tribunal or other authority—

(i) the notification No. S.O. 867(E) dated 27th October, 1938 issued under sub-section (1) of section 3 of the principal Act, and

(ii) any fees levied or collected or purported to have been levied or collected for making an application for a permit to import, or for making inspection, fumigation, disinfection, disinfect supervision of, any article or class of articles or any insect or class of insects under the principal Act or the said notification,

shall, for all purposes, be deemed to be and to have always been validly issued or, as the case may be, levied or collected in accordance with the provisions of section 3 of the principal Act as amended by this Ordinance, and accordingly—

(a) no suit or other proceeding shall be maintained or continued in any court for the refund of any fees so collected;

(b) no court or other authority shall enforce any decree or order directing the refund of any fees so collected;

(c) any fees levied or purported to have been levied but not collected, may be recovered under the principal Act as amended by this Ordinance; and

(d) anything done or any action taken or purported to have been done or taken under or for the purposes of the principal Act shall be deemed to have been validly done or taken in accordance with law as if the provisions of section 3 of the principal Act as amended by this Ordinance had been in force at all material times.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person—

(a) from questioning in accordance with the provisions of the principal Act, as amended by this Ordinance, or the notification issued under section 3 of the principal Act, the levy or collection of such fees; or

(b) from claiming refund of any fees paid by him in excess of the amount due from him under the principal Act, as amended by this Ordinance, or the said notification.

R. VENKATARAMAN,
President.

V. S. RAMA DEVUL
Secy. to the Govt. of India.
CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Securities and Exchange Board of India Ordinance, 1992.

(2) It extends to the whole of India.
(3) It shall come into force at once.

2. (1) In this Ordinance, unless the context otherwise requires,—

(c) "Board" means the Securities and Exchange Board of India established under section 3;

(b) "Chairman" means the Chairman of the Board;

(c) "existing Securities and Exchange Board" means the Securities and Exchange Board of India constituted under the Resolution of the Government of India in the Department of Economic Affairs No. 1(44)SE/86, dated the 12th day of April, 1988;

(d) "Fund" means the fund constituted under section 14;

(e) "member" means a member of the Board and includes the Chairman;

(f) "notification" means a notification published in the Official Gazette;

(g) "prescribed" means prescribed by rules made under this Ordinance;

(h) "regulations" means the regulations made by the Board under this Ordinance;

(i) "securities" has the meaning assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956.

(2) Words and expressions, used herein and not defined but defined in the Securities Contracts (Regulation) Act, 1956, or the Capital Issues (Control) Act, 1947, have the meanings assigned to them in those Acts.

CHAPTER II

ESTABLISHMENT OF THE SECURITIES AND EXCHANGE BOARD OF INDIA

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Ordinance, a Board by the name of the Securities and Exchange Board of India.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Board shall be at Bombay.

(4) The Board may establish offices at other places in India.

4. (1) The Board shall consist of the following members, namely:—

(a) a Chairman;

(b) two members from amongst the officials of the Ministries of the Central Government dealing with Finance and Law;

(c) one member from amongst the officials of the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934;

2 of 1934

(d) two other members,
to be appointed by the Central Government.

(2) The general superintendence, direction and management of the
affairs of the Board shall vest in a Board of members, which may exercise
all powers and do all acts and things which may be exercised or done by
the Board.

(3) Save as otherwise determined by regulations, the Chairman shall
also have powers of general superintendence and direction of the affairs
of the Board and may also exercise all powers and do all acts and things
which may be exercised or done by that Board.

(4) The Chairman and members referred to in clauses (a) and (d)
of sub-section (1) shall be appointed by the Central Government and
the members referred to in clauses (b) and (c) of that sub-section shall
be nominated by the Central Government and the Reserve Bank of India
respectively.

(5) The Chairman and the other members referred to in clauses (a)
and (d) of sub-section (1) shall be from amongst the persons of ability,
income and standing who have shown capacity in dealing with problems
relating to securities market or have special knowledge or experience of
law, finance, economics, accountancy, administration or in any other
discipline which, in the opinion of the Central Government, shall be
useful to the Board.

5. (1) The term of office and other conditions of service of the Chairman and the members referred to in clause (d) of sub-section (1) of
section 4 shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the
Central Government shall have the right to terminate the services of
the Chairman or a member appointed under clause (d) of sub-section
(1) of section 4, at any time before the expiry of the period prescribed
under sub-section (1) by giving him notice of not less than three months
in writing or three months’ salary and allowances in lieu thereof, and the
Chairman or a member, as the case may be, shall also have the right to
relinquish his office, at any time before the expiry of the period prescribed
under sub-section (1), by giving to the Central Government notice of
not less than three months in writing.

6. (1) The Central Government shall remove a member from office if he—

(a) is, or at any time has been, adjudicated as insolvent;

(b) is of unsound mind and stands so declared by a competent
court;

(c) has been convicted of an offence which, in the opinion of
the Central Government, involves a moral turpitude.

(a) is appointed as a director of a company;

(c) has, in the opinion of the Central Government, so abused his
position as to render his continuation in office detrimental to the
public interest;
Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

7. (1) The Board shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(2) The Chairman or, if for any reason, he is unable to attend any meeting of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of the members of the Board present and voting, and, in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have a second or casting vote.

8. No act or proceeding of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of the Board; or

(b) any defect in the appointment of a person as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

9. (1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Ordinance.

(2) The terms and other conditions of service of officers and employees of the Board appointed under sub-section (1) shall be such as may be determined by regulations.

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC. OF THE EXISTING SECURITIES AND EXCHANGE BOARD TO THE BOARD

10. (1) On and from the date of establishment of the Board,—

(a) any reference to the existing Securities and Exchange Board in any law other than this Ordinance or in any contract or other instrument shall be deemed as a reference to the Board;

(b) all properties and assets, movable and immovable, of, or belonging to, the existing securities and Exchange Board, shall vest in the Board;

(c) all rights and liabilities of the existing Securities and Exchange Board shall be transferred to, and be, the rights and liabilities of, the Board;

(d) Without prejudice to the provisions of clause (c), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the existing Securities and Exchange Board immediately before that date, for or in connection with the purpose of the said existing Board shall be deemed to have been incurred, entered into, or engaged to be done by with or, for the Board;
(e) all sums of money due to the existing Securities and Exchange Board immediately before that date shall be deemed to be due to the Board;

(f) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Securities and Exchange Board immediately before that date may be continued or may be instituted by or against the Board;

(g) every employee holding any office under the existing Securities and Exchange Board immediately before that date shall hold his office in the Board by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the Board had not been established and shall continue to do so as an employee of the Board or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Board within such period.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, absorption of any employee by the Board in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained by any court, tribunal or other authority.

CHAPTER IV

POWERS AND FUNCTIONS OF THE BOARD

11. (1) Subject to the provisions of this Ordinance, it shall be the duty of the Board to protect the interest of investors in securities and to promote the development of, and to regulate the securities market by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for—

(a) regulating the business in stock exchanges and any other securities markets;

(b) registering and regulating the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers and such other intermediaries who may be associated with securities markets in any manner;

(c) registering and regulating the working of collective investment schemes including mutual funds;

(d) promoting and regulating self-regulatory organisations;

(e) prohibiting fraudulent and unfair trade practices relating to securities markets;

(f) promoting investors' education and training of intermediaries of securities markets;

(g) prohibiting insider trading in securities;
(h) regulating substantial acquisition of shares and take-over of companies;

(i) calling for information from, undertaking inspection, conducting inquiries and audits of the stock exchanges and intermediaries and self-regulatory organisations in the securities market;

(j) performing such functions and exercising such powers under the provisions of the Capital Issues (Control) Act, 1947 and the Securities Contracts (Regulation) Act, 1956, as may be delegated to it by the Central Government;

(k) levying fees or other charges for carrying out the purpose of this section;

(l) conducting research for the above purposes;

(m) performing such other functions as may be prescribed.

CHAPTER V

REGISTRATION CERTIFICATE

12. (1) No stock-broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the rules made under this Ordinance:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock-broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application.

(2) Every application for registration shall be in such manner and on payment of such fees as may be determined by regulations.

(3) The Board may, by order, suspend or cancel a certificate of registration in such manner as may be determined by regulations:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

13. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as the Central Government may think fit for being utilised for the purposes of this Ordinance.
14. (1) There shall be constituted a fund to be called the Securities and Exchange Board of India General Fund and there shall be credited thereto—

(a) all grants, fees and charges received by the Board under this Ordinance;

(b) all sums received by the Board from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of members and officers and other employees of the Board;

(b) the expenses of the Board in the discharge of its functions under section 11;

(c) expenses on objects and for purposes authorised by this Ordinance.

15. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

CHAPTER VII

MISCELLANEOUS

16. (1) Without prejudice to the foregoing provisions of this Ordinance, the Board shall, in exercise of its powers or the performance of its functions under this Ordinance, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.
17. (1) If at any time the Central Government is of opinion—

(a) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Ordinance;

(b) that the Board has persistently made default in complying with any direction issued by the Central Government under this Ordinance or in the discharge of the functions and duties imposed on by or under the provisions of this Ordinance and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Ordinance, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by fresh appointments and in such case any person or persons who vacated their offices under clause (a) sub-section (2), shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

18. (1) The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the securities market, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall within sixty days, after the end of each financial year, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.
(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

19. The Board may by general or special order in writing, delegate to any member, officer of the Board or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Ordinance (except the powers under section 26) as it may deem necessary.

20. (1) Any person aggrieved by an order made under this Ordinance, or the rules or regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

21. Nothing in this Ordinance shall exempt any person from any suit or other proceedings which might, apart from this Ordinance, be brought against him.

22. All members and officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, to be public servants within the meaning of section 21 of the Indian Penal Code.

23. No suit, prosecution or other legal proceedings shall lie against the Central Government or any officer of the Central Government or any member, officer or other employee of the Board for anything which is in good faith done or intended to be done under this Ordinance or the rules or regulations made thereunder.

24. Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Ordinance or any rules or regulations made thereunder shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

25. Notwithstanding anything contained in the Wealth-tax Act, 1957, the Income-tax Act, 1961 or any other enactment for the time being in force relating to tax on wealth, income, profits or gains—

(a) the Board;
(b) the existing Securities and Exchange Board from the date of its constitution to the date of establishment of the Board shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

26. (1) No court shall take cognizance of any offence punishable under this Ordinance or any rules or regulations made thereunder, save on a complaint made by the Board with the previous sanction of the Central Government.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Ordinance.

27. (1) Where an offence under this Ordinance has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Ordinance, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner of the firm.

28. If the Central Government is of the opinion that it is necessary or expedient so to do in public interest, it may, by order published in the Official Gazette, exempt any person or class of persons buying or selling securities or otherwise dealing with the securities market from the operation of the provisions of section (1) of section 12.

29. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the terms of office and other conditions of service of the Chairman and the members under sub-section (1) of section 5;

(b) the additional functions that may be performed by the Board under section 11;

(c) the conditions subject to which registration Certificate is to be issued under sub-section (1) of section 12;
(d) the manner in which the accounts of the Board shall be maintained under section 15;

(e) the form and the manner in which returns and report to be made to the Central Government under section 18;

(f) any other matter which is to be, or may be prescribed or in respect of which provision is to be, made by rules.

30. (1) The Board may, with the previous approval of the Central Government, by notification, make regulations consistent with this Ordinance and the rules made thereunder generally to carry out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:

(a) the times and places of meetings of the Board and the procedure to be followed at such meetings under sub-section (1) of section 7 including quorum necessary for the transaction of business;

(b) the terms and other conditions of service of officers and employees of the Board under sub-section (2) of section 9;

(c) the amount of fee to be paid for registration certificate and manner of suspension or cancellation of registration certificate under sub-sections (2) and (3) of section 12.

31. Every rule and every regulation made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

32. The provisions of this Ordinance shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

33. The enactments specified in Parts I and II of the Schedule to this Ordinance shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Board.

34. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Ordinance as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Ordinance.

(2) Every order made under this section shall be laid, as soon as may be after it is made before each House of Parliament.
THE SCHEDULE

(See section 33)

AMENDMENT OF CERTAIN ENACTMENTS

PART I

AMENDMENTS TO THE CAPITAL ISSUES (CONTROL) ACT, 1947
(29 OF 1947)

Section 10, for “to that Government”, substitute “to that Government or the Securities and Exchange Board of India”

PART II

AMENDMENTS TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956
(42 OF 1956)

1. Section 2, in clause (h), for sub-clause (ii), substitute

“(ii) Government securities;

(iia) such other instruments as may be declared by the Central Government to be securities; and”.

2. Section 6,—

    (i) in sub-section (1), for “Central Government”, substitute “Securities and Exchange Board of India”;

    (ii) in sub-section (2), for “by the Central Government”, substitute “by the Securities and Exchange Board of India”;

    (iii) in sub-section (3), for “Central Government” wherever it occurs, substitute “Securities and Exchange Board of India”;

3. Section 9, for “Central Government” wherever it occurs, substitute “Securities and Exchange Board of India”;

4. Section 10, for “Central Government” wherever it occurs, substitute “Securities and Exchange Board of India”;

5. Section 17, in sub-section (1), for licence granted by the Central Government”, substitute “licence granted by the Securities and Exchange Board of India”;

6. Section 21, for “Central Government”, substitute “Securities and Exchange Board of India”;

7. Section 22A, in sub-section (3), for clause (b), substitute,

    “(b) that the transfer of the securities is in contravention of any law or rules made thereunder or any administrative instructions or conditions of listing agreement laid down in pursuance of such laws or rules”.

8. Section 23, for “Central Government under section 21 or section 22”, substitute “Securities and Exchange Board of India under section 21 or the Central Government under section 22”.
9. After section 29, insert,—

"29A. The Central Government may, by order published in the Official Gazette, direct that the powers exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any as may be specified in the order, be exercisable also by the Securities and Exchange Board of India."

R. VENKATARAMAN,  
President.

V. S. RAMA DEVI,  
Secy. to the Govt. of India.
THE PUBLIC LIABILITY INSURANCE (AMENDMENT) ORDNANCE, 1992

No. 6 of 1992

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to amend the Public Liability Insurance Act, 1991.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Public Liability Insurance (Amendment) Ordinance, 1992.

(2) It shall come into force at once.

2. In section 2 of the Public Liability Insurance Act, 1991 (hereinafter referred to as the principal Act),—
(ii) before clause (ac), as so re-lettered, the following clauses shall be inserted, namely:

(a) the maximum amount for which an insurance policy may be taken out by an owner under sub-section (2A) of section 4;

(aa) the amount required to be paid by every owner for being credited to the Relief Fund under sub-section (2C) of section 4;

(ab) the manner in which and the period within which the amount received from the owner is required to be remitted by the insurer under sub-section (2D) of section 4;

(b) in sub-section (2), for the word "rule", wherever it occurs, the words "rule or scheme" shall be substituted.

R. VENKATARAMAN,
President.

V. S. RAMA DEVI,
Secy. to the Govt. of India.
Repealed by Act 16 of 1992, S. 3

The Gazette of India

EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 10] NEW DELHI, SATURDAY, FEBRUARY 15, 1992/MAGHA 26, 1913

THE CESS AND OTHER TAXES ON MINERALS (VALIDATION) ORDINANCE, 1992

No. 7 OF 1992

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to validate the imposition and collection of cesses and certain other taxes on minerals under certain State laws.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Cess and Other Taxes on Minerals (Validation) Ordinance, 1992.

(2) It extends to the whole of India.

(3) It shall come into force at once.

(1)
2. (1) The laws specified in the Schedule to this Ordinance shall be, and shall be deemed always to have been, as valid as if the provisions contained therein relating to cesses or other taxes on minerals had been enacted by Parliament and such provisions shall be deemed to have remained in force up to the 4th day of April, 1991.

(2) Notwithstanding any judgment, decree or order of any court, all actions taken, things done, rules made, notifications issued or purported to have been taken, done, made or issued and cesses or other taxes on minerals realised under any such laws shall be deemed to have been validly taken, done, made, issued or realised, as the case may be, as if this section had been in force at all material times when such actions were taken, things were done, rules were made, notifications were issued, or cesses or other taxes were realised, and no suit or other proceeding shall be maintained or continued in any court for the refund of the cesses or other taxes realised under any such laws.

(3) For the removal of doubts, it is hereby declared that nothing in subsection (2) shall be construed as preventing any person from claiming refund of any cess or tax paid by him in excess of the amount due from him under any such laws.

THE SCHEDULE
(See section 2)


4. The Cess Act, 1880 (Bengal Act 9 of 1889) as applicable in the State of Bihar.


R. VENKATARAMAN,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 30] NEW DELHI, FRIDAY, MAY 29, 1992/JYAISTHA 8, 1914

No. 20] NAI DILSHI, SHASHIWAR, MAI 29, 1992/RAJYANKH 8, 1914

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 29th May, 1992/Jyaistha 8, 1914 (Saka)

THE FOREIGN EXCHANGE CONSERVATION (TRAVEL) TAX ABOLITION ORDINANCE, 1992

No. 8 OF 1992

Promulgated by the President in the Forty-third Year of the Republic of India.


WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Foreign Exchange Conservation (Travel) Tax Abolition Ordinance, 1992.

(2) It shall come into force on the 1st day of June, 1992.
2. Chapter V of the Finance Act, 1987, relating to the Foreign Exchange Conservation (Travel) Tax, shall be omitted.

R. VENKATARAMAN,
President.

RAGBHIR SINGH,
Joint Secretary to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 29th May, 1992/Jyaistha 8, 1914 (Saka)

THE CAPITAL ISSUES (CONTROL) REPEAL ORDINANCE, 1992

No. 9 OF 1992

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to repeal the Capital Issues (Control) Act, 1947

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Capital Issues (Control) Repeal Ordinance, 1992.

(2) It shall come into force at once.
2. The Capital Issues (Control) Act, 1947 is hereby repealed.

R. VENKATARAMAN,
President.

RAGHBIR SINGH.
Joint Secretary to the Govt. of India.
THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO TRANSACTIONS IN SECURITIES) ORDINANCE, 1992

No. 10 of 1992

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to provide for the establishment of a Special Court for the trial of offences relating to transactions in securities and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Special Court (Trial of Offences Relating to Transactions in Securities) Ordinance, 1992.

(2) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,—

(a) "Code" means the Code of Criminal Procedure, 1973;
(b) "Custodian" means the custodian appointed under sub-section (1) of section 3;

(c) "securities" includes—

(i) shares, scrips, stocks, bonds, debentures, debenture stock, units of the Unit Trust of India or any other Mutual Fund or other marketable securities of a like nature in or of any incorporated company or other body corporate;

(ii) Government securities; and

(iii) rights or interests in securities;

(d) "Special Court" means the Special Court established under sub-section (1) of section 5.

3. (1) The Central Government may appoint one or more Custodians as it may deem fit for the purposes of this Ordinance.

(2) The Custodian may, on being satisfied on information received that any person has been involved in any offence relating to transactions in securities after the 1st day of April, 1991 and on and before the promulgation of this Ordinance, notify the name of such person in the Official Gazette.

(3) Notwithstanding anything contained in the Code, on and from the date of notification under sub-section (2), any property, movable or immovable, or both, belonging to any person notified under that sub-section shall stand attached simultaneously with the issue of the notification.

(4) The property attached under sub-section (3) shall be dealt with by the Custodian in such manner as the Special Court may direct.

(5) The Custodian may take assistance of any person for discharging his duties under this section.

4. If the Custodian is satisfied, after such inquiry as he may think fit, that any contract or agreement entered into at any time after the 1st day of April, 1991 and on and before the proclamation of this Ordinance in relation to any property of the person notified under sub-section (2) of section 3 has been entered into fraudulently or to defeat the provisions of this Ordinance, he may cancel such contract or agreement and on such cancellation such property shall stand attached under this Ordinance:

Provided that no contract or agreement shall be cancelled except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

5. (1) The Central Government shall, by notification in the Official Gazette, establish a court to be called Special Court.

(2) The Special Court shall consist of a sitting judge of the High Court nominated by the Chief Justice of the High Court within the local limits of whose jurisdiction the Special Court is situated, with the concurrence of the Chief Justice of India.

6. The Special Court shall take cognizance of or try such cases as are instituted before it or transferred to it as hereinafter provided.
7. Notwithstanding anything contained in any other law, any prosecution in respect of any offence referred to in sub-section (2) of section 3 shall be instituted only in the Special Court and any prosecution in respect of such offence pending in any court shall stand transferred to the Special Court.

8. The Special Court shall have jurisdiction to try any person concerned in the offence referred to in sub-section (2) of section 3 either as a principal, conspirator or abettor and all other offences and accused persons as can be jointly tried therewith at one trial in accordance with the Code.

9. (1) The Special Court shall, in the trial of such cases, follow the procedure prescribed by the Code for the trial of warrant cases before a magistrate.

(2) Save as expressly provided in this Ordinance, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Ordinance, apply to the proceedings before the Special Court and for the purposes of the said provisions of the Code, the Special Court shall be deemed to be a Court of Session and shall have all the powers of a Court of Session, and the person conducting a prosecution before the Special Court shall be deemed to be a Public Prosecutor.

(3) The Special Court may pass upon any person convicted by it any sentence authorised by law for the punishment of the offence of which such person is convicted.

10. (1) Notwithstanding anything in the Code, an appeal shall lie from any judgment, sentence or order, not being interlocutory order, of the Special Court to the Supreme Court both on facts and on law.

(2) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order of the Special Court.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of any judgment, sentence or order of the Special Court:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

11. (1) Notwithstanding anything contained in the Code and any other law for the time being in force, the Special Court may make such order as it may deem fit directing the Custodian for the disposal of the property under attachment.

(2) The following liabilities shall be paid or discharged in full, as far as may be, in the order as under:

(a) all revenues, taxes, cesses and rates due from the persons notified by the Custodian under sub-section (2) of section 3 to the Central Government or any State Government or any local authority;

(b) all amounts due from the person so notified by the Custodian to any bank or financial institution;

(c) any other liability as may be specified by the Special Court from time to time.
12. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or the Custodian for anything which is in good faith done or intended to be done under this Ordinance.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith, done or intended to be done under this Ordinance.

13. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Ordinance, or in any decree or order of any court, tribunal or other authority.

14. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Ordinance.

(2) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

R. VENKATARAMAN,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to provide for the development and regulation of foreign trade by facilitating imports into, and augmenting exports from, India and for matters connected therewith or incidental thereto,

WHEREAS the Foreign Trade (Development and Regulation) Bill, 1992 for giving effect to the aforesaid object has been introduced in Parliament but has not yet been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the Bill.

Now therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:——

CHAPTER I
PRELIMINARY

1. (1) This Ordinance may be called the Foreign Trade (Development and Regulation) Ordinance, 1992.
(2) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,—

(a) "Adjudicating Authority" means the authority specified in, or under, section 13;

(b) "Appeal Authority" means the authority specified in, or under, sub-section (1) of section 15;

(c) "conveyance" means any vehicle, vessel, aircraft or any other means of transport including any animal;

(d) "Director General" means the Director General of Foreign Trade appointed under section 6;

(e) "import" and "export" mean respectively bringing into, or taking out of, India any goods by land, sea or air;

(f) "Importer-Exporter Code Number" means the Code Number granted under section 7;

(g) "licence" means a licence to import or export and includes a customs clearance permit and any other permission issued or granted under this Ordinance;

(h) "Order" means any Order made by the Central Government under section 3; and

(i) "prescribed" means prescribed by rules made under this Ordinance.

CHAPTER II

POWER OF CENTRAL GOVERNMENT TO MAKE ORDERS AND ANNOUNCE EXPORT AND IMPORT POLICY

3. (1) The Central Government may, by Order published in the Official Gazette, make provision for the development and regulation of foreign trade by facilitating imports and increasing exports.

(2) The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods.

(3) All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 and all the provisions of that Act shall have effect accordingly.

4. All Orders made under the Imports and Exports (Control) Act, 1947, and in force immediately before the promulgation of this Ordinance shall, so far as they are not inconsistent with the provisions of this Ordinance, continue to be in force and shall be deemed to have been made under this Ordinance.
5. The Central Government may, from time to time, formulate and announce, by notification in the Official Gazette, the export and import policy and may also, in like manner, amend that policy.

6. (1) The Central Government may appoint any person to be the Director General of Foreign Trade for the purposes of this Ordinance.

(2) The Director General shall advise the Central Government in the formulation of the export and import policy and shall be responsible for carrying out that policy.

(3) The Central Government may, by Order published in the Official Gazette, direct that any power exercisable by it under this Ordinance (other than the powers under sections 3, 5, 15, 16 and 19) may also be exercised, in such cases and subject to such conditions, by the Director General or such other officer subordinate to the Director General, as may be specified in the Order.

CHAPTER III
IMPORTER-EXPORTER CODE NUMBER AND LICENCE

7. No person shall make any import or export except under an Importer-Exporter Code Number granted by the Director General or the officer authorised by the Director General in this behalf, in accordance with the procedure specified in this behalf by the Director General.

8. (1) Where—

(a) any person has contravened any law relating to Central Excise or Customs or foreign exchange or has committed any other economic offence under any other law for the time being in force as may be specified by the Central Government by notification in the Official Gazette, or

(b) the Director General has reason to believe that any person has made an export or import in a manner gravely prejudicial to the trade relations of India with any foreign country or to the interests of other persons engaged in imports or exports or has brought disrepute to the credit or the goods of the country,—

the Director General may call for the record or any other information from that person and may, after giving to that person a notice in writing informing him of the grounds on which it is proposed to suspend or cancel the Importer-Exporter Code Number and giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice and, if that person so desires, of being heard, suspend for a period, as may be specified in the order, or cancel the Importer-Exporter Code Number granted to that person.

(2) Where any Importer-Exporter Code Number granted to a person has been suspended or cancelled under sub-section (1), that person shall not be entitled to import or export any goods except under a special licence granted, in such manner and subject to such conditions as may be prescribed, by the Director General to that person.
9. (1) The Central Government may levy fees, subject to such exceptions, in respect of such person or class of persons making an application for a licence or in respect of any licence granted or renewed in such manner as may be prescribed.

(2) The Director General or an officer authorised by him may, on an application and after making such enquiry as he may think fit, grant or refuse to grant a licence to import or export such class or classes of goods as may be prescribed, after recording in writing his reasons for such refusal.

(3) A licence granted under this section shall—
(a) be in such form as may be prescribed;
(b) be valid for such period as may be specified therein; and
(c) be subject to such terms, conditions and restrictions as may be prescribed or as specified in the licence with reference to the terms, conditions and restrictions so prescribed.

(4) The Director General or the officer authorised under sub-section (2) may, subject to such conditions as may be prescribed, for good and sufficient reasons, to be recorded in writing, suspend or cancel any licence granted under this Ordinance:

Provided that no such suspension or cancellation shall be made except after giving the holder of the licence a reasonable opportunity of being heard.

(5) An appeal against an order refusing to grant, or suspending or cancelling, a licence shall lie in like manner as an appeal against an order would lie under section 15.

CHAPTER IV
SEARCH, SEIZURE, PENALTY AND CONFISCATION

10. (1) The Central Government may, by notification in the Official Gazette, authorise any person for the purposes of exercising such powers with respect to entering such premises and searching, inspecting and seizing of such goods, documents, things and conveyances, subject to such requirements and conditions, as may be prescribed.

(2) The provisions of the Code of Criminal Procedure, 1973 relating to searches and seizures shall, so far as may be, apply to every search and seizure made under this section.

11. (1) No export or import shall be made by any person except in accordance with the provisions of this Ordinance, the rules and the orders made thereunder and the export and import policy for the time being in force.

(2) Where any person makes or abets or attempts to make any export or import in contravention of any provision of this Ordinance or any rules or orders made thereunder or the export and import policy, he shall be liable to a penalty not exceeding one thousand rupees or five times the value of the goods in respect of which any contravention is made or attempted to be made, whichever is more.
(3) Where any person, on a notice to him by the Adjudicating Authority, admits any contravention, the Adjudicating Authority may, in such class or classes of cases and in such manner as may be prescribed, determine, by way of settlement, an amount to be paid by that person.

(4) A penalty imposed under this Ordinance may, if it is not paid, be recovered as an arrear of land revenue and the Importer-Exporter Code Number of the person concerned, may, on failure to pay the penalty by him, be suspended by the Adjudicating Authority till the penalty is paid.

(5) Where any contravention of any provision of this Ordinance or any rules or orders made thereunder or the export and import policy has been, is being, or is attempted to be, made, the goods together with any package, covering or receptacle and any conveyances shall, subject to such requirements and conditions as may be prescribed, be liable to confiscation by the Adjudicating Authority.

(6) The goods or the conveyance confiscated under sub-section (5) may be released by the Adjudicating Authority, in such manner and subject to such conditions as may be prescribed, on payment by the person concerned of the redemption charges equivalent to the market value of the goods or conveyance, as the case may be.

12. No penalty imposed or confiscation made under this Ordinance shall prevent the imposition of any other punishment to which the person affected thereby is liable under any other law for the time being in force.

13. Any penalty may be imposed or any confiscation may be adjudged under this Ordinance by the Director General or, subject to such limits as may be specified, by such other officer as the Central Government may, by notification in the Official Gazette, authorise in this behalf.

14. No order imposing a penalty or of adjudication of confiscation shall be made unless the owner of the goods or conveyance, or other person concerned, has been given a notice in writing—

(a) informing him of the grounds on which it is proposed to impose a penalty or to confiscate such goods or conveyance; and

(b) to make a representation in writing within such reasonable time as may be specified in the notice against the imposition of penalty or confiscation mentioned therein, and, if he so desires, of being heard in the matter.

CHAPTER V

APPEAL AND REVISION

15. (1) Any person aggrieved by any decision or order made by the Adjudicating Authority under this Ordinance may prefer an appeal,—

(a) where the decision or order has been made by the Director General, to the Central Government;
(b) where the decision or order has been made by an officer subordinate to the Director General, to the Director General or to any officer superior to the Adjudicating Authority authorised by the Director General to hear the appeal,

within a period of forty-five days from the date on which the decision or order is served on such person:

Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the aforesaid period, allow such appeal to be preferred within a further period of thirty days:

Provided further that in the case of an appeal against a decision or order imposing a penalty or redemption charges, no such appeal shall be entertained unless the amount of the penalty or redemption charges has been deposited by the appellant:

Provided also that, where the Appellate Authority is of opinion that the deposit to be made will cause undue hardship to the appellant, it may, at its discretion, dispense with such deposit either unconditionally or subject to such conditions as it may impose.

(2) The Appellate Authority may, after giving to the appellant a reasonable opportunity of being heard, if he so desires, and after making such further enquiries, if any, as it may consider necessary, make such orders as it thinks fit, confirming, modifying or reversing the decision or order appealed against, or may send back the case with such directions, as it may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary:

Provided that an order enhancing or imposing a penalty or redemption charges or confiscating goods of a greater value shall not be made under this section unless the appellant has been given an opportunity of making a representation, and, if he so desires, of being heard in his defence.

(3) The order made in appeal by the Appellate Authority shall be final.

16. The Central Government, in the case of any decision or order, not being a decision or order made in an appeal, made by the Director General, or the Director General in the case of any decision or order made by any officer subordinate to him, may on its or his own motion or otherwise, call for and examine the records of any proceeding in which a decision or an order imposing a penalty or redemption charges or adjudicating confiscation has been made and against which no appeal has been preferred, for the purpose of satisfying itself or himself, as the case may be, as to the correctness, legality or propriety of such decision or order and make such orders thereon as may be deemed fit;

Provided that no decision or order shall be varied under this section so as to prejudicially affect any person unless such person—

(a) has, within a period of two years from the date of such decision or order, received a notice to show cause why such decision or order shall not be varied, and
(b) has been given a reasonable opportunity of making representation and, if he so desires, of being heard in his defence.

17. (1) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Ordinance shall have all the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the discovery and production of any document;

(c) requisitioning any public record or copy thereof from any court or office;

(d) receiving evidence on affidavits; and

(e) issuing commissions for the examination of witnesses or documents.

(2) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Ordinance shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

(3) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Ordinance shall have the power to make such orders of an interim nature as it may think fit and may also, for sufficient cause, order the stay of operation of any decision or order.

(4) Clerical or arithmetical mistakes in any decision or order or errors arising therein from any accidental slip or omission may at any time be corrected by the authority by which the decision or order was made, either on its own motion or on the application of any of the parties:

Provided that where any correction proposed to be made under this sub-section will have the effect of prejudicially affecting any person, no such correction shall be made except after giving to that person a reasonable opportunity of making a representation in the matter and no such correction shall be made after the expiry of two years from the date on which such decision or order was made.

CHAPTER VI

MISCELLANEOUS

18. No order made or deemed to have been made under this Ordinance shall be called in question in any court, and no suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Ordinance or any order made or deemed to have been made thereunder.

19. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.
(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which and the conditions subject to which a special licence may be issued under sub-section (2) of section 8;

(b) the exceptions subject to which the person or class of persons in respect of whom fees may be levied and the manner in which a licence may be granted or renewed under sub-section (1) of section 9;

(c) the class or classes of goods for which a licence may be granted under sub-section (2) of section 9;

(d) the form in which and the terms, conditions and restrictions subject to which licence may be granted under sub-section (3) of section 9;

(e) the conditions subject to which a licence may be suspended or cancelled under sub-section (4) of section 9;

(f) the premises, goods, documents, things and conveyances in respect of which and the requirements and conditions subject to which power of entry, search, inspection and seizure may be exercised under sub-section (1) of section 10;

(g) the class or classes of cases for which and the manner in which an amount, by way of settlement, may be determined under sub-section (3) of section 11;

(h) the requirements and conditions subject to which goods and conveyances shall be liable to confiscation under sub-section (5) of section 11;

(i) the manner in which and the conditions subject to which goods and conveyances may be released on payment of redemption charges under sub-section (6) of section 11; and

(j) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

(3) Every rule and every order made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or the order or both the Houses agree that the rule or the order should not be made, the rule or the order, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or the order,
29. (1) The Imports and Exports (Control) Act, 1947 is hereby repealed.

(2) The repeal shall, however, not affect—

(a) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(c) any penalty, confiscation or punishment incurred in respect of any contravention under the Act so repealed; or

(d) any proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, confiscation or punishment as aforesaid,

and any such proceeding or remedy may be instituted, continued or enforced, and any such penalty, confiscation or punishment may be imposed or made as if that Act had not been repealed.

R. VENKATARAMAN,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 52] NEW DELHI, THURSDAY, AUGUST 27, 1992/BHADRA 5, 1914

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 27th August, 1992/Bhadra 5, 1914 (Saka)

THE ESSENTIAL COMMODITIES (SPECIAL PROVISIONS) AMENDMENT ORDINANCE, 1992

No. 12 of 1992

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance further to amend the Essential Commodities (Special Provisions) Act, 1981 and to make special provision by way of amendment to the Essential Commodities Act, 1955.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Essential Commodities (Special Provisions) Amendment Ordinance, 1992.

2. In paragraph 2 of the Preamble to the Essential Commodities (Special Provision) Act, 1981 (hereinafter referred to as the principal Act), for the words “ten years”, the words “fifteen years” shall be substituted.
3. In section 1 of the principal Act, in sub-section (3), for the words “ten years”, the words “fifteen years” shall be substituted.

4. After section 9 of the principal Act, the following section shall be inserted, namely:

9A. In the Essential Commodities Act, 1955, after section 10A, the following section shall be inserted, namely:

“10AA. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no officer below the rank of an officer in-charge of a police station or any police officer authorised by him in this behalf in writing shall arrest any person accused of committing an offence punishable under this Act.”

SHANKIR DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
Repealed by Ordinance 2 of 1933.

राजस्थान सों डी-एल-33004/92
REGISTERED No. DL-33004/92

भारत का राजपत्र
The Gazette of India

EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रतिविदित
PUBLISHED BY AUTHORITY

सं 53] नई दिल्ली, बुधवार, ज्यून 21, 1992/ब्रह्म 5, 1914
No. 53] NEW DELHI, THURSDAY, AUGUST 27, 1992/BHADRA 5, 1914

इस मार्ग में निम्न पृष्ठ संख्या दी जाती है जिससे कि यह कलम संक्षेप के समय में पृष्ठ बांट सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 27th August, 1992/Bhadra 5, 1914 (Saka)

THE INDIAN MEDICAL COUNCIL (AMENDMENT) ORDINANCE, 1992

No. 13 of 1992

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance further to amend the Indian Medical Council Act, 1956.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which renders it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Indian Medical Council (Amendment) Ordinance, 1992.

(2) It shall come into force at once.

2. After section 10 of the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely:

10A, 10B and 10C.
10A. (1) Notwithstanding anything contained in this Act or any other law for the time being in force,—

(a) no person shall establish a medical college; or

(b) no medical college shall—

(i) open a new or higher course of study or training (including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the award of any recognised medical qualification; or

(ii) increase its admission capacity in any course of study or training (including a post-graduate course of study or training), except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

Explanation 1.—For the purposes of this section, “person” includes any University or a trust but does not includes the Central Government.

Explanation 2.—For the purposes of this section, “admission capacity”, in relation to any course of study or training (including post-graduate course of study or training) in a medical college, means the maximum number of students that may be fixed by the Council from time to time for being admitted to such course or training.

(2) (a) Every person or medical college shall, for purpose of obtaining permission under sub-section (1), submit to the Central Government a scheme in accordance with the provisions of clause (b) and the Central Government shall refer the scheme to the Council for its recommendation.

(b) The scheme referred to in clause (a) shall be in such form and contain such particulars and be preferred in such manner and be accompanied with such fee as may be prescribed.

(3) On receipt of a scheme by the Council under sub-section (2) the Council may obtain such other particulars as may be considered necessary by it from the person or the medical college concerned, and thereafter, it may,—

(a) if the scheme is defective and does not contain any necessary particulars, give a reasonable opportunity to the person or college concerned for making a written representation and it shall be open to such person or medical college to rectify the defects, if any specified by the Council;

(b) consider the scheme, having regard to the factors referred to in sub-section (7), and submit the scheme together with its recommendations thereon to the Central Government.

(4) The Central Government may, after considering the scheme and the recommendations of the Council under sub-section (7) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person or college concerned, and having regard to the factors referred to in sub-section (7), either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme and any such approval shall be a permission under sub-section (1):
Provided that no scheme shall be disapproved by the Central Government except after giving the person or college concerned a reasonable opportunity of being heard:

Provided further that nothing in this sub-section shall prevent any person or medical college whose scheme has not been approved by the Central Government to submit a fresh scheme and the provisions of this section shall apply to such scheme, as if such scheme has been submitted for the first time under sub-section (1).

(5) Where, within a period of one year from the date of submission of the scheme to the Central Government under sub-section (1), no order passed by the Central Government has been communicated to the person or college submitting the scheme, such scheme shall be deemed to have been approved by the Central Government in the form in which it had been submitted, and, accordingly, the permission of the Central Government required under sub-section (1) shall also be deemed to have been granted.

(6) In computing the time limit specified in sub-section (5), the time taken by the person or college concerned submitting the scheme, in furnishing any particulars called for by the Council, or by the Central Government, shall be excluded.

(7) The Council, while making its recommendations under clause (b) of sub-section (2) and the Central Government, while passing an order, either approving or disapproving the scheme under sub-section (4), shall have due regard to the following factors, namely:—

(a) whether the proposed medical college or the existing medical college seeking to open a new or higher course of study or training, would be in a position to offer the minimum standards of medical education as prescribed by the Council under section 19A or, as the case may be, under section 20 in the case of post-graduate medical education;

(b) whether the person seeking to establish a medical college or the existing medical college seeking to open a new or higher course of study or training or to increase its admission capacity has adequate financial resources;

(c) whether necessary facilities in respect of staff, equipment, accommodation, training and other facilities to ensure proper functioning of the medical college or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(d) whether adequate hospital facilities, having regard to the number of students likely to attend such medical colleges or course of study or training or as a result of the increased admission capacity, have been provided or would be provided within the time-limit specified in the scheme;

(e) whether any arrangement has been made of programme drawn to impart proper training to students likely to attend such
medical college or course of study or training by persons having the recognised medical qualifications;

(f) the requirement of manpower in the field of practice of medicine; and

(g) any other factors as may be prescribed.

(6) Where the Central Government passes an order either approving or disapproving a scheme under this section, a copy of the order shall be communicated to the person or college concerned.

10B. (1) Where any medical college is established except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any student of such medical college shall be a recognised medical qualification for the purposes of this Act.

(2) Where any medical college opens a new or higher course of study or training (including a post-graduate course of study or training) except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any student of such medical college on the basis of such study or training shall be a recognised medical qualification for the purposes of this Act.

(3) Where any medical college increases its admission capacity in any course of study or training except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any student of such medical college on the basis of the increase in its admission capacity shall be a recognised medical qualification for the purposes of this Act.

Explanation.—For the purposes of this section, the criteria for identifying a student who has been granted a medical qualification on the basis of such increase in the admission capacity shall be such as may be prescribed.

10C. (1) If, after the 1st day of June, 1992 and on and before the commencement of the Indian Medical Council (Amendment) Ordinance, 1992 any person has established a medical college or any medical college has opened a new or higher course of study or training or increased the admission capacity, such person or medical college, as the case may be, shall seek, within a period of one year from the commencement of the Indian Medical Council (Amendment) Ordinance, 1992, the permission of the Central Government in accordance with the provisions of section 10A of the principal Act.

(2) If any person or medical college, as the case may be, fails to seek the permission under sub-section (1) of this Ordinance, the provisions of section 10B of the principal Act shall apply, so far as may be, as if permission of the Central Government under section 10A of the principal Act 10A has been refused.

3. In section 33 of the principal Act, after clause (f), the following clauses shall be inserted, namely:—

“(fa) the form of the scheme, the particulars to be given in such scheme, the manner in which the scheme is to be preferred and the fee
payable with the scheme under clause (b) of sub-section (2) of section 10A;

\[\text{(b)}\] the criteria for identifying a student who has been granted a medical qualification referred to in Explanation to sub-section (3) of section 10B.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 27th August, 1992/Bhadra 5, 1914 (Saka)

THE DENTISTS (AMENDMENT) ORDINANCE, 1992

No. 14 of 1992

Promulgated by the President in the Forty-third Year of the Republic of India

An Ordinance further to amend the Dentists Act, 1948.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Dentists (Amendment) Ordinance, 1992.

(2) It shall come into force at once.

(1)
2. After section 10 of the Dentist Act, 1948 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely:

10A. (1) Notwithstanding anything contained in this Act or any other law for the time being in force,

(a) no person shall establish an authority or institution for a course of study or training (including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the grant of recognised dental qualification; or

(b) no authority or institution conducting a course of study or training (including a post-graduate course of study or training) for grant of recognised dental qualification shall—

(i) open a new or higher course of study or training (including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the award of any recognised dental qualification; or

(ii) increase its admission capacity in any course of study or training (including a post-graduate course of study or training), except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

Explanation 1.—For the purposes of this section, "person" includes any University or a trust but does not include the Central Government.

Explanation 2.—For the purposes of this section, "admission capacity", in relation to any course of study or training (including a post-graduate course of study or training) in an authority or institution granting recognised dental qualification, means the maximum number of students that may be fixed by the Council from time to time for being admitted to such course or training.

(2) (a) Every person, authority or institution granting recognised dental qualification shall, for the purpose of training permission under sub-section (1), submit to the Central Government a scheme in accordance with the provisions of clause (b) and the Central Government shall refer the said scheme to the Council for its recommendation.

(b) The scheme referred to in clause (a) shall be in such form and contain such particulars and be preferred in such manner and be accompanied with such fee as may be prescribed.

(3) On receipt of a scheme by the Council under sub-section (2), the Council may obtain such other particulars as may be considered necessary by it from the person, authority or institution concerned, granting recognised dental qualification and thereafter, it may—

(a) if the scheme is defective and does not contain any necessary particulars, give a reasonable opportunity to the person, authority or institution concerned for making a written
representation and it shall be open to such person, authority or institution to rectify the defects, if any, specified by the Council:

(b) consider the scheme, having regard to the factors referred to in sub-section (7) and submit the scheme together with its recommendations thereon to the Central Government.

(4) The Central Government may, after considering the scheme and the recommendations of the Council under sub-section (3) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person, authority or institution concerned, and having regard to the factors referred to in sub-section (7), either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme and any such approval shall be a permission under sub-section (1):

Provided that no scheme shall be disapproved by the Central Government except after giving the person, authority or institution concerned granting recognised dental qualification a reasonable opportunity of being heard.

Provided further that nothing in this sub-section shall prevent any person, authority or institution whose scheme has not been approved to submit a fresh scheme and the provisions of this section shall apply to such scheme, as if such scheme has been submitted for the first time under sub-section (1).

(5) Where, within a period of one year from the date of submission of the scheme to the Central Government under sub-section (1), no order passed by the Central Government has been communicated to the person, authority or institution submitting the scheme, such scheme shall be deemed to have been approved by the Central Government in the form in which it had been submitted, and accordingly, the permission of the Central Government required under sub-section (1) shall also be deemed to have been granted.

(6) In computing the time limit specified in sub-section (5), the time taken by the person, authority or institution concerned submitting the scheme in furnishing any particulars called for by the Council or by the Central Government shall be excluded.

(7) The Council while making its recommendation under clause (b) of sub-section (3) and the Central Government, while passing an order either approving or disapproving the scheme under sub-section (4), shall have due regard to the following factors, namely:

(c) whether the proposed authority or institution for grant of recognised dental qualification or the existing authority or institution seeking to open a new or higher course of study or training, would be in a position to offer the minimum standards of dental education in conformity with the requirements referred to in section 16A and the regulations made under sub-section (1) of section 28;
(b) whether the person seeking to establish an authority or institution or the existing authority or institution seeking to open a new or higher course of study or training or to increase its admission capacity has adequate resources;

(c) whether necessary facilities in respect of staff, equipment, accommodation, training and other facilities to ensure proper functioning of the authority or institution or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(d) whether adequate hospital facilities, having regard to the number of students likely to attend such authority or institution or course of study or training or as a result of the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(e) whether any arrangement has been made or programme drawn to impart proper training to students likely to attend such authority or institution or course of study or training by persons having the recognised dental qualifications;

(f) the requirement of manpower in the field of practice of dentistry; and

(g) any other factors as may be prescribed.

(8) Where the Central Government passes an order either approving or disapproving a scheme under this section a copy of the order shall be communicated to the person, authority or institution concerned.

10B. (1) Where any authority or institution is established for grant of recognised dental qualification except with the previous permission of the Central Government in accordance with the provisions of section 10A, no dental qualification granted to any student of such authority or institution shall be a recognised dental qualification for the purposes of this Act.

(2) Where any authority or institution granting recognised dental qualification opens a new or higher course of study or training (including a post-graduate course of study or training) except with the previous permission of the Central Government in accordance with the provisions of section 10A, no dental qualification granted to any student of such authority or institution on the basis of such study or training (including a post-graduate course of study or purposes of this Act.

(3) Where any authority or institution granting recognised dental qualification increases its admission capacity in any course of study or training (including a post-graduate course of study or training) except with the previous permission of the Central Government in accordance with the provisions of section 10A, no dental qualification granted to any student of such authority or institution on the basis of the increase in its admission capacity shall be a recognised dental qualification for the purposes of this Act.
Explanation.—For the purposes of this section, the criteria for identifying a student who has been granted a dental qualification on the basis of such increase in the admission capacity shall be such as may be prescribed.

10C. (1) If, after the 1st day of June, 1992 and on and before the commencement of the Dentists (Amendment) Ordinance, 1992 any person has established an authority or institutions for grant of recognised dental qualification or any authority or institution granting recognised dental qualification has opened a new or higher course of study or training (including a post-graduate course of study or training) or increased its admission capacity, each person, authority or institution, as the case may be, shall seek, within a period of one year from the commencement of the Dentists (Amendment) Ordinance, 1992, the permission of the Central Government in accordance with the provisions of section 10A of the principal Act.

(2) If any person or, as the case may be, any authority or institution granting recognised dental qualification fails to seek the permission under sub-section (1) of this Ordinance, the provisions of section 10B of the principal Act shall apply, so far as may be, as if permission of the Central Government under section 10A has been refused.

3. In section 55 of the principal Act, in sub-section (2) after clause (f), the following clauses shall be inserted, namely:

“(fa) the form of the scheme, the particulars to be given in such scheme, the manner in which the scheme is to be preferred and the fee payable with the scheme under clause (b) of sub-section (2) of section 10A;

(fb) the criteria for identifying a student who has been granted a medical qualification referred to in Explanation to sub-section (3) of section 10B.”

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secretary to the Govt. of India.

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THE INTEREST ON DELAYED PAYMENTS TO SMALL SCALE AND ANCILLARY INDUSTRIAL UNDERTAKINGS ORDINANCE, 1992

No. 15 OF 1992

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to provide for and regulate the payment of interest on delayed payments to small scale and ancillary industrial undertakings and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1992.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(2) It shall come into force at once.
2. In this Ordinance, unless the context otherwise requires,—

(a) "ancillary industrial undertaking" has the meaning assigned to it by clause (aa) of section 3 of the Industries (Development and Regulation) Act, 1951;

(b) "appointed day" means the day following immediately after the expiry of the period of thirty days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier.

Explanation.—For the purposes of this clause,—

(i) "the day of acceptance" means,—

(a) the day of the actual delivery of goods or the rendering of services; or

(b) where any objection is made in writing by the buyer regarding acceptance of goods or services within thirty days from the day of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier;

(ii) "the day of deemed acceptance" means, where no objection is made in writing by the buyer regarding acceptance of goods or services within thirty days from the day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services;

(c) "buyer" means whoever buys any goods or receives any services from a supplier for consideration;

(d) "goods" means every kind of movable property other than actionable claims and money;

(e) "small scale industrial undertaking" has the meaning assigned to it by clause (f) of section 3 of the Industries (Development and Regulation) Act, 1951;

(f) "supplier" means an ancillary industrial undertaking or a small scale industrial undertaking holding a permanent registration certificate issued by the Directorate of Industries of a State or Union territory.

3. Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day.

4. Where any buyer fails to make payment of the amount to the supplier, as required under section 3, the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay interest to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at such rate which is five per cent. points above the floor rate for comparable lending.
Explanation.—For the purposes of this section, “floor rate for comparable lending” means the highest of the minimum lending rates charged by scheduled banks (not being co-operative banks) on credit limits in accordance with the directions given or issued to banking companies generally by the Reserve Bank of India under the Banking Regulation Act, 1949.

5. Notwithstanding anything contained in any agreement between a supplier and a buyer or in any law for the time being in force, the buyer shall be liable to pay compound interest (with monthly rests) at the rate mentioned in section 4 on the amount due to the supplier.

6. The amount due from a buyer, together with the amount of interest calculated in accordance with the provisions of sections 4 and 5, shall be recoverable by the supplier from the buyer by way of a suit or other proceeding under any law for the time being in force.

7. No appeal against any decree, award or other order shall be entertained by any court or other authority unless the appellant (not being a supplier) has deposited with it seventy-five per cent. of the amount in terms of the decree, award or, as the case may be, other order in the manner directed by such court or, as the case may be, such authority.

8. Where any buyer is required to get his annual accounts audited under any law for the time being in force, such buyer shall specify the amount together with interest in his annual statement of accounts as remains unpaid to any supplier at the end of each accounting year;

9. Notwithstanding anything contained in the Income-tax Act, 1961, the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Ordinance, shall not, for the purposes of computation of income under that Act, be allowed as deduction.

10. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
THE DELHI DEVELOPMENT (AMENDMENT) ORDINANCE, 1992

No. 16 of 1992

Promulgated by the President in the Forty-third year of the Republic of India

An Ordinance further to amend the Delhi Development Act, 1957.

WHEREAS Parliament is not in session and the President is satisfied that the circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Delhi Development (Amendment) Ordinance, 1992.

(2) It shall come into force at once.

2. In section 29 of the Delhi Development Act, 1957,—

(a) in sub-section (1), for clause (b), the following clause shall be substituted, namely:

(1)
“(b) with simple imprisonment which may extend to six months or with fine which shall not be less than fifty thousand rupees, but which may extend to an amount equivalent to the market value of the area developed, or with both in any case, other than those referred to in clause (a)”;

(b) in sub-section (2), the following proviso shall be added at the end, namely:—

"Provided that where any person uses any land or building, intended to be used for residential purposes, for commercial purposes, he shall be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to an amount equivalent to the market value of the area used in such contravention, or the date of conviction, and in the case of a continuing offence, with further fine equivalent to ten per cent of such market value for every day during which such offence continues after conviction for the first commission of the offence.

Explanation:—For the purposes of this section market value of the land shall be the value of the land calculated in accordance with the commercial land rates notified by the Central Government, from time to time."

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
THE INDUSTRIAL FINANCE CORPORATION (TRANSFER OF UNDERTAKING AND REPEAL) ORDINANCE, 1992

No. 17 of 1992

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to provide for the transfer and vesting of the undertaking of the Industrial Finance Corporation of India to and in the Company to be formed and registered as a Company under the Companies Act, 1956, and for matters connected therewith or incidental thereto and also to repeal the Industrial Finance Corporation Act, 1948.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action,

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Ordinance, 1992.

(2) It shall come into force at once.
2. In this Ordinance, unless the context otherwise requires,—

(a) "appointed day" means such date as the Central Government may, by notification in the Official Gazette, appoint under section 3;

(b) "Company" means the Industrial Finance Corporation of India Limited to be formed and registered under the Companies Act, 1956;

(c) "Corporation" means the Industrial Finance Corporation of India established under sub-section (1) of section 3 of the Industrial Finance Corporation Act, 1948.

3. On such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be transferred to, and vest in, the Company the undertaking of the Corporation.

4 (1) Every shareholder of the Corporation immediately before the appointed day shall be deemed to be registered on and from the appointed day as a shareholder of the Company to the extent of the face value of the shares held by such shareholder.

(2) The undertaking of the Corporation which is transferred to and which vests in the Company under section 3 shall be deemed to include all business, assets, rights, powers, authorities and privileges and all properties, movable and immovable, real and personal, corporeal and incorporeal, in possession or reservation, present or contingent of whatever nature and wheresoever situate including lands, buildings, vehicles, cash balances, deposits, foreign currencies, disclosed and undisclosed reserves, reserve fund, special reserve fund, benevolent reserve fund, any other fund, stocks, investments, shares, bonds, debentures, security, management of any industrial concern, loans, advances and guarantees given to industrial concerns, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of the Corporation in relation to its undertaking, within or without India, all books of accounts, registers, records and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind within or without India then subsisting of the Corporation in relation to its undertaking.

(3) All contracts, deeds, bonds, guarantees, powers of attorney, other instruments and working arrangements subsisting immediately before the appointed day and affecting the Corporation shall cease to have effect or to be enforceable against the Corporation and shall be of as full force and effect against or in favour of the Company in which the undertaking of the Corporation has vested by virtue of this Ordinance and enforceable as fully and effectually as if instead of the Corporation, the Company had been named therein or had been a party thereto.

(4) Any proceeding or cause of action pending or existing immediately before the appointed day by or against the Corporation in relation to its undertaking may, us from the appointed day, be continued and enforced by or against the Company in which the undertaking of the Corporation has vested by virtue of this Ordinance as it might have been enforced by or against the Corporation if this Ordinance had not been promulgated and shall cease to be enforceable by or against the Corporation.
5. With effect from the appointed day, all fiscal and other concessions, licences, benefits, privileges and exemptions granted to the Corporation in connection with the affairs and business of the Corporation under any law for the time being in force shall be deemed to have been granted to the Company.

6. (1) Where any exemption from, or any assessment with respect to, any tax has been granted or made or any benefit by way of set off or carry forward of any unabsorbed depreciation or investment allowance or other allowance, or loss has been extended or is available to the Corporation under the Income-tax Act, 1961, such exemption, assessment or benefit shall continue to have effect in relation to the Company.

(2) Where any payment made by the Corporation is exempt from deduction of tax at source under any provision of the Income-tax Act, 1961 such exemption will continue to be available as if the provisions of the said Act made applicable to the Corporation were operative in relation to the Company.

(3) The transfer and vesting of the undertaking or any part thereof in terms of section 3 shall not be construed as a transfer within the meaning of the Income-tax Act, 1961; for the purposes of capital gains.

7. Any guarantee given for or in favour of the Corporation with respect to any loan, lease, finance or other assistance shall continue to be operative in relation to the Company.

8. (1) Every officer or other employee of the Corporation (except a Director of the Board, Chairman or Managing Director) serving in the employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in the Company by virtue of this Ordinance, become, as from the appointed day, an officer or, as the case may be, other employee of the Company and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, leave, fare, concession, welfare scheme, medical benefit scheme, insurance, provident fund, other funds, retirement, voluntary retirement, gratuity and other benefits as he would have held under the Corporation if its undertaking had not vested in the Company and shall continue to do so as an officer or, as the case may be, other employee of the Company or until the expiry of a period of six months from the appointed day if such officer or other employee opts not to continue to be the officer or other employee of the Company within such period.

(2) Where an officer or other employee of the Corporation opts under sub-section (1) not to be in employment or service of the Company, such officer or other employee shall be deemed to have resigned.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of the Corporation to the Company shall not entitle such officer or other employee to any compensation under this Ordinance or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.
(4) The officers and other employees who have retired before the appointed day from the service of the Corporation and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the Company.

(5) The trusts of the provident fund or the gratuity fund of the Corporation and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the Company as was being done hitherto in the Corporation and any tax exemption granted to the provident fund or the gratuity fund would continue to be applied to the Company.

(6) Notwithstanding anything contained in this Ordinance or in the Companies Act, 1956 or in any other law for the time being in force or in the regulations of the Corporation, no Director of the Board, Chairman, Managing Director or any other person entitled to manage the whole or substantial part of the business and affairs of the Corporation shall be entitled to any compensation against the Corporation or the Company for the loss of office or for the premature termination of any contract of management entered into by him with the Corporation.

9. The Company shall be deemed to be a bank for the purposes of the Bankers' Books Evidence Act, 1891.

10. Notwithstanding anything contained in any other law for the time being in force, the shares, bonds and debentures of the Company shall be deemed to be approved securities for the purposes of the Indian Trusts Act, 1882, the Insurance Act, 1938 and the Banking Regulation Act, 1949.

11. (1) On the appointed day, the Industrial Finance Corporation Act, 1948 shall stand repealed.

(2) Notwithstanding such repeal, the Company shall, so far as may be, comply with the provisions of sections 33, 34, 34A, 35 and 43 of the Act so repealed for any of the purposes related to the annual accounts of the Corporation.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
An Ordinance to provide for the regulation of the multimodal transportation of goods, from any place in India to a place outside India, on the basis of a multimodal transport contract and for matters connected therewith or incidental thereto.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I
PRELIMINARY

1. (1) This Ordinance may be called the Multimodal Transportation of Goods Ordinance, 1992.

(2) It extends to the whole of India except the State of Jammu and Kashmir.
(3) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,—

(a) "carrier" means a person who is engaged in the business of transporting for hire goods, by road, rail, inland waterways or sea;

(b) "competent authority" means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Ordinance;

(c) "consignee" means the person named as consignee in the multimodal transport contract;

(d) "consignment" means the goods entrusted to a multimodal transport operator for multimodal transportation;

(e) "consignor" means the person, named in the multimodal transport contract as consignor, by whom or on whose behalf the goods covered by such contract are entrusted to multimodal transport operator for multimodal transportation;

(f) "delivery" means,—

(i) in the case of negotiable multimodal transport document, delivering of the consignment to, or placing consignment at the disposal of, the consignee or any other person entitled to receive it;

(ii) in the case of non-negotiable multimodal transport document, delivering of the consignment to, or placing consignment at the disposal of the consignee or any person authorised by the consignee to accept delivery of the consignment on his behalf;

(g) "endorsee" means the person in whose favour an endorsement is made, and in the case of successive endorsements, the person in whose favour the last endorsement is made;

(h) "endorsement" means the signing by the consignee or the endorsee after adding a direction on a negotiable multimodal transport document to pass the property in the goods mentioned in such document to a specified person;

(i) "goods" includes—

(I) containers, pallets, or similar articles of transport used to consolidate goods; and

(II) animals;

(j) "mode of transport" means carriage of goods by road, rail, inland waterways or sea;

(k) "multimodal transportation" means carriage of goods by two or more modes of transport from the place of acceptance of goods in India to a place of the delivery of goods outside India;

(l) "multimodal transport contract" means a contract entered into by the consignor and the multimodal transport operator for multimodal transportation;
(m) "multimodal transport operator" means any person who—

(i) concludes a multimodal transport contract on his own behalf or through another person acting on his behalf;

(ii) acts as principal, and not as an agent either of the consignor or of the carrier participating in the multimodal transportation, and who assumes responsibility for the performance of the said contract; and

(iii) is registered under sub-section (3) of section 4;

(n) "negotiable multimodal transport document" means a multimodal transport document which is—

(i) made out to order or to bearer; or

(ii) made out to order and is transferable by endorsement; or

(iii) made out to bearer and is transferable without endorsement;

(o) "non-negotiable multimodal transport document" means a multimodal transport document which indicates only one named consignee;

(p) "prescribed" means prescribed by rules made under this Ordinance;

(q) "registration" means registration of multimodal transport operator under sub-section (3) of section 4.

CHAPTER II

REGULATION OF MULTIMODAL TRANSPORTATION

3. No person shall carry on or commence the business of multimodal transportation unless he is registered under this Ordinance:

Provided that a person carrying on the business of multimodal transportation immediately before the commencement of this Ordinance, may continue to do so for a period of three months from such commencement; and if he has made an application for registration within the said period, till the disposal of such application.

4. (1) Any person may apply for registration to the competent authority to carry on or commence the business of multimodal transportation.

(2) An application under sub-section (1) shall be made in such form as may be prescribed and shall be accompanied by a fee of ten thousand rupees.

(3) On receipt of the application, the competent authority shall satisfy that the applicant fulfils the following conditions, namely:

(a) (i) that the applicant is a shipping company or a company engaged in the business of freight forwarding in India or abroad with a minimum annual turnover of fifty lakh rupees during the immediate preceding financial year or an average annual turnover of fifty lakh rupees during the preceding three financial years as certified by a chartered accountant within the meaning of the Chartered Accountants Act, 1949;
(ii) that if the applicant is a company other than the company specified in sub-clause (i), the subscribed share capital of such company is not less than fifty lakh rupees;

(b) that the applicant has offices or agents or representatives in not less than two other countries,

and on being so satisfied, register the applicant as multimodal transport operator and grant a certificate to it to carry on or commence the business of multimodal transportation and the competent authority may, for reasons to be recorded in writing, refuse to grant registration if it is satisfied that the applicant does not fulfil the said conditions.

(4) A certificate granted under sub-section (3) shall be valid for a period of one year and may be renewed from time to time for a further period of one year at a time.

(5) An application for renewal shall be made in such form as may be prescribed and shall be accompanied by a fee of two thousand rupees.

5. The competent authority may, if it is satisfied at any time after registration that—

(a) any statement in, or in relation to, any application under sub-section (2) of section 4 or its renewal under sub-section (5) of that section, is incorrect or false in any material particular; or

(b) any of the provisions of this Ordinance or the rules made thereunder has been contravened by the multimodal transport operator; or

(c) the multimodal transport operator has not entered into any multimodal transport contract during the preceding two years after his registration,

cancel by order the certificate of registration:

Provided that no such registration shall be cancelled unless the multimodal transport operator has been given a reasonable opportunity of showing cause against the proposed action.

6. (1) Any person aggrieved by an order made by the competent authority under section 5 may prefer an appeal to the Central Government within such period as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the prescribed period:

Provided that an appeal may be admitted after the expiry of the prescribed period if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and on payment of such fees as may be prescribed and shall be accompanied by a copy of the order appealed against.

(4) On receipt of any such appeal, the Central Government shall, after giving the parties a reasonable opportunity of being heard and after making such enquiry as it deems proper, make such order as it thinks fit.
CHAPTER III

MULTIMODAL TRANSPORT DOCUMENT

7. (1) Where the consignor and the multimodal transport operator have entered into a contract for the multimodal transportation and the multimodal transport operator has taken charge of the goods, he shall, at the option of the consignor, issue a negotiable or non-negotiable multimodal transport document.

(2) The multimodal transport document shall be signed by the multimodal transport operator or by a person duly authorized by him.

8. (1) Every consignee named in the negotiable or non-negotiable multimodal transport document and every endorsee of such document, as the case may be, to whom the property in the goods mentioned therein shall pass, upon or by reason of such consignment or endorsement, shall have all the rights and liabilities of the consignor.

(2) Nothing contained in sub-section (1) shall prejudice or affect the right of the multimodal transport operator to claim freight from the consignor or enforce any liability of the consignee or endorsee by reason of his being such consignee or endorsee.

9. The multimodal transport document shall contain the following particulars, namely:

(a) the general nature of the goods, the leading marks necessary for identification of the goods, the character of the goods (including dangerous goods), number of packages or units and the gross weight and quantity of the goods;

(b) apparent condition of the goods;

(c) the name and principal place of business of the multimodal transport operator;

(d) the name of the consignor;

(e) the name of the consignee, if specified by the consignor;

(f) the place and date of taking charge of the goods by the multimodal transport operator;

(g) the place of delivery of the goods;

(h) the date or the period of delivery of the goods at the place of delivery;

(i) whether it is negotiable or non-negotiable;

(j) the place and date of its issue;

(k) freight payable by the consignor or the consignee, as the case may be;

(l) the signature of the multimodal transport operator or of a person duly authorized by him;

(m) the intended journey route, modes of transport and places of transshipment, if known at the time of its issue;
(n) terms of shipment and a statement that the document has been issued subject to and in accordance with this Ordinance; and

(o) any other particulars which the parties may agree to insert in the document, if any such particular is not inconsistent with any law for the time being in force.

10. (1) Where the multimodal transport operator or a person acting on his behalf knows, or has reasonable grounds to suspect, that the particulars furnished by the consignor in the multimodal transport document do not accurately represent the goods actually taken in charge, or if he has no reasonable means of checking such particulars, the multimodal transport operator or a person acting on his behalf shall insert in the multimodal transport document a reservation specifying the inaccuracies, if any, the grounds of suspicion or the absence of reasonable means of checking the particulars.

(2) Where the multimodal transport operator or a person acting on his behalf fails to insert the reservation in the multimodal transport document relating to the apparent condition of the goods, he shall be deemed to have accepted the goods in apparent good condition.

11. Save as provided in section 10,—

(a) the multimodal transport document shall be prima facie evidence of the fact that the multimodal transport operator has taken charge of the goods as described in the document; and

(b) no proof to the contrary by the multimodal transport operator shall be admissible if the multimodal transport document is issued in negotiable form and has been transmitted to the consignee or transferred by the consignee to a third party, if the consignee or the third party has acted in good faith relying on the description of the goods in the document.

12. (1) The consignor shall be deemed to have guaranteed to the multimodal transport operator the adequacy and accuracy, at the time the multimodal transport operator takes charge of the goods, of the particulars referred to in clauses (a) and (b) of section 9 as furnished by the consignor for insertion in the multimodal transport document.

(2) The consignor shall indemnify the multimodal transport operator against loss resulting from inadequacy or inaccuracy of the particulars referred to in sub-section (1).

(3) The right of the multimodal transport operator under sub-section (2) shall in no way limit his liability under the multimodal transport contract to any person other than the consignor.

CHAPTER IV
RESPONSIBILITIES AND LIABILITIES OF THE MULTIMODAL TRANSPORT OPERATOR

13. (1) The multimodal transport operator shall be liable for loss resulting from—

(a) any loss of, or damage to, the consignment;
(b) delay in delivery of the consignment and any consequential loss or damage arising from such delay,

where such loss, damage or delay in delivery took place while the consignment was in his charge:

Provided that the multimodal transport operator shall not be liable if he proves that no fault or neglect on his part or that of his servants or agents had caused or contributed to such loss, damage or delay in delivery:

Provided further that the multimodal transport operator shall not be liable for loss or damage arising out of delay in delivery unless the consignor had made a declaration of interest in timely delivery which has been accepted by the multimodal transport operator.

Explanation—For the purposes of this sub-section, “delay in delivery” shall be deemed to occur when the consignment has not been delivered within the time expressly agreed upon or, in the absence of such agreement, within a reasonable time required by a diligent multimodal transport operator, having regard to the circumstances of the case, to effect the delivery of the consignment.

(2) If the consignment has not been delivered within ninety consecutive days following the date of delivery expressly agreed upon or the reasonable time referred to in the Explanation to sub-section (1), the claimant may treat the consignment as lost.

14. (1) Where a multimodal transport operator becomes liable for any loss of, or damage to, any consignment, the nature and value whereof have not been declared by the consignor before such consignment has been taken in charge by the multimodal transport operator and the stage of transport at which such loss or damage occurred is not known, then the liability of the multimodal transport operator to pay compensation shall not exceed two Special Drawing Rights per kilogram of the gross weight of the consignment lost or damaged or 668.67 Special Drawing Rights per package or unit lost or damage, whichever is higher.

Explanation—For the purposes of this sub-section, where a container, pallet or similar article of transport is loaded with more than one package or unit, the packages or units enumerated in the multimodal transport document, as packed in such container, pallet or similar article of transport shall be deemed as packages or units.

(2) Notwithstanding anything contained in sub-section (1), if the multimodal transportation does not, according to the multimodal transport contract, include carriage of goods by sea or by inland waterways, the liability of the multimodal transport operator shall be limited to an amount not exceeding 8.33 Special Drawing Rights per kilogram of the gross weight of the goods lost or damaged.
15. Where a multimodal transport operator becomes liable for any loss of, or damage to, any consignment, the nature and value whereof have not been declared by the consignor before such consignment has been taken in charge by the multimodal transport operator and the stage of transport at which such loss or damage occurred is known, then the limit of the liability of the multimodal transport operator for such loss or damage shall be determined in accordance with the provisions of the relevant law applicable in relation to the mode of transport during the course of which the loss or damage occurred and any stipulation in the multimodal transport contract to the contrary shall be void and unenforceable.

16. Where delay in delivery of the consignment occurs under any of the circumstances mentioned in the Explanation to sub-section (1) of section 13, or any consequential loss or damage arises from such delay, then, the liability of the multimodal transport operator shall be limited to the freight payable for the consignment so delayed.

17. (1) Assessment of compensation for loss of, or damage to, the consignment shall be made with reference to the value of such consignment at the place where, and time on which, such consignment is delivered to the consignee or at the place and time when, in accordance with the multimodal transport contract, it should have been delivered.

(2) The value of the consignment shall be determined according to the current commodity exchange price, or, if there is no such price, according to the current market price, or, if the current market price is not ascertainable, with reference to the normal value of consignment of the same kind and quantity.

18. The multimodal transport operator shall not be entitled to the benefit of the limitation of liability under any of the provisions of this Chapter if it is proved that the loss, damage or delay in delivery of consignment resulted from an act or omission of the multimodal transport operator with intent to cause such loss, damage or delay or recklessly and with knowledge that such loss, damage or delay would probably result.

19. The multimodal transport operator shall not, in any case, be liable for an amount greater than the liability for total loss of goods for which a person will be entitled to make a claim against him under the provisions of this Ordinance.
20. (1) The delivery of the consignment to the consignee by the multimodal transport operator shall be treated as **prima facie** evidence of delivery of the goods as described in the multimodal transport document unless notice of the general nature of loss of, or damage to, the goods is given in writing, by the consignee to the multimodal transport operator at the time of handing over of the goods to the consignee.

(2) Where the loss or damage is not apparent, the provisions of subsection (1) shall apply unless notice in writing is given by the consignee of the loss of, or damage to, the goods within six consecutive days after the day when the goods were handed over to the consignee.

**CHAPTER V**

**MISCELLANEOUS**

21. (1) Where the consignor hands over such goods as may be prescribed to a multimodal transport operator or any person acting on behalf of such operator, the consignor shall inform him of the nature of the dangerous goods and, if necessary, the precautions to be taken while transporting such goods.

(2) Where the consignor fails to inform the multimodal transport operator or the other person acting on behalf of such operator of the nature of the dangerous goods and such operator or person does not otherwise have knowledge of the dangerous goods—

(a) the consignor shall be liable to the multimodal transport operator or the other person acting on behalf of such operator for all loss resulting from the multimodal transportation of such goods; and

(b) the goods at any time be unloaded, destroyed and rendered innocuous, as the circumstances may require, without payment of compensation.

22. (1) The multimodal transport operator who has not been paid the amount of consideration stipulated in the multimodal transport contract shall have a lien on the consignment and on the documents in his possession.

(2) Notwithstanding anything contained in sections 13, 16 and 18, the period during which the goods are in possession of the multimodal transport operator in exercise of his right of lien referred to in sub-section (1) shall not be included for the purposes of calculating the time of delay under any of those sections.

23. Notwithstanding anything contained in any other provision of this Ordinance, it shall be lawful for the parties to the multimodal transport contract to include in the multimodal transport document any provision relating to general average.

Explanation.—For the purposes of this section, "general average" means loss, damage or expense reasonably incurred in order to avert danger to property in common peril and in the common interest involved in the multimodal transportation.
The multimodal transport operator shall not be liable under any of the provisions of this Ordinance unless action against him is brought within nine months of—

1. the date of delivery of the goods, or
2. the date when the goods should have been delivered, or
3. the date on and from which the party entitled to receive delivery of the goods has the right to treat the goods as lost under subsection (2) of section 13.

25. Any party to the multimodal transport contract may institute an action in a court which is competent and within the jurisdiction of which is situated one of the following places, namely:

1. the principal place of business, or, in the absence thereof, the habitual residence, of the defendant; or
2. the place where the multimodal transport contract was made, provided that the defendant has a place of business, branch or agency at such place; or
3. the place of taking charge of the goods for multimodal transportation or the place of delivery thereof; or
4. any other place specified in the multimodal transport contract and evidenced in the multimodal transport document.

26. (1) The parties to a multimodal transport contract may provide therein that any dispute which may arise in relation to multimodal transportation under the provisions of this Ordinance shall be referred to arbitration.

(2) The arbitration proceeding may be instituted at such place or in accordance with such procedure as may be specified in the multimodal transport document.

27. The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Ordinance, except the power under section 30, shall, in such circumstances and subject to such conditions, if any, as may be specified therein, be exercisable also by such officer or authority as may be specified in the notification.

28. No person registered as a multimodal transport operator shall enter into any contract for multimodal transportation except in accordance with the provisions of this Ordinance and any contract, to the extent it is inconsistent with the said provisions, shall be void and unenforceable.

29. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any law other than this Ordinance.
30. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:

(a) the form in which application shall be made under sub-section (2) of section 4;

(b) the period within which appeal shall be preferred under sub-section (1) of section 6;

(c) the form in which an appeal shall be preferred under section 6 and the amount of fee payable in respect of such appeal;

(d) dangerous goods for the purpose of section 21;

(e) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

31. On and from the date of the commencement of this Ordinance, the enactments specified in Parts I, II and III of the Schedule shall be amended in the manner specified therein.

THE SCHEDULE

(See section 31)

AMENDMENTS TO CERTAIN ENACTMENTS

PART I

Amendments to the Carriers Act, 1865

(3 of 1865)

In the Carriers Act, 1865,—

(a) in section 2, in the definition relating to "common carrier", after the words "engaged in the business of" the words "transporting property under multimodal transport document or of" shall be inserted;

(b) in section 2, in the definition relating to "common carrier", words and brackets "property (including container, pallet or similar article of transport used to consolidate goods) delivered" shall, respectively, be substituted;

(c) in sections 9 and 10, for the words "goods entrusted", the words and brackets "goods (including containers, pallets or similar article of transport used to consolidate goods) entrusted" shall, respectively, be substituted.
PART II

Amendments to the Indian Carriage of Goods by Sea Act, 1925

(26 of 1925)

In the Indian Carriage of Goods by Sea Act, 1925,—

(a) in the Preamble, after the second paragraph, the following paragraph shall be inserted, namely:

"AND WHEREAS the said rules were amended by the Protocol signed at Brussels on 23rd February, 1968 and by the Protocol signed at Brussels on 21st December, 1979;"

(b) in section 7, in sub-section (i), for the words and figures "sections 331 and 352", the words, figures and letters "section 331 and Part XA" shall be substituted;

(c) in the Schedule,—

(i) in Article I, in clause (c) after the words "merchandises," the words "containers, pallets or similar article of transport used to consolidate goods if supplied by the shipper," shall be inserted;

(ii) in Article III,—

(1) in paragraph 4, the following shall be added at the end, namely:

"However, proof to the contrary shall not be admissible when the bill of lading has been transferred to a third party acting in good faith."

(2) in paragraph 6, in the third sub-paragraph, the following shall be added at the end, namely:

"This period may, however, be extended if the parties so agree after the cause of action has arisen;

Provided that a suit may be brought after the expiry of the period of one year referred to in this sub-paragraph within a further period of not more than three months as allowed by the court.";

(iii) in Article IV, in paragraph 5,—

(1) for the words and figures "amount exceeding 100 l. per package or unit", the words and figures "amount exceeding 666.67 Special Drawing Rights per package or unit of two Special Drawing Rights per kilogram of gross weight of the goods lost or damaged, whichever is higher" shall be substituted;

(2) after the first sub-paragraph, the following sub-paragraphs shall be inserted, namely:

"Where a container, pallet or similar article of transport is used to consolidate goods, the number of packages or units enumerated in the bill of lading and as packed in such article of transport shall be deemed
to be the number of packages or units for the purposes of this paragraph as far as these packages or units are concerned.

Neither the carrier nor the ship shall be entitled to the benefit of the limitation of liability provided for in this paragraph if it is proved that the damage resulted from an act or omission of the carrier done with intent to cause damage, or recklessly and with knowledge that damage would probably result.

Where the nature or value of the goods has been knowingly misstated by the shipper in the bill of lading, the liability of the carrier or ship shall not exceed the value so stated."

PART III

Amendment to the Sale of Goods Act, 1930

(3 of 1930)

In the Sale of Goods Act, 1930, in section 2, in clause (4), after the words "railway receipt," the words "multimodal transport document," shall be inserted.

SHANKER DAYAL SHARMA.

President.

B. R. ATRE,

Joint Secy. to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  

(Legislative Department)  

New Delhi, the 23rd October, 1992/Kartika 1, 1914 (Saka)  

THE NATIONAL HIGHWAYS (AMENDMENT) ORDINANCE, 1992  

No. 19 of 1992  

Promulgated by the President in the Forty-third Year of the Republic of India.  

An Ordinance further to amend the National Highways Act, 1956.  

WHEREAS a Bill further to amend the National Highways Act, 1956 has been passed by the House of the People and is pending in the Council of States;  

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the Bill;  

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—  

1. (1) This Ordinance may be called the National Highways (Amendment) Ordinance, 1992.  

(2) It shall come into force at once.
2. In section 7 of the National Highways Act, 1956 (hereinafter referred to as the principal Act), in sub-section (1), after the words "on national highways", the words "and the use of sections of national highways" shall be inserted.

3. In section 9 of the principal Act, in sub-section (2), in clause (b), after the words "national highway", the words "and the use of sections of any national highway" shall be inserted.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 23rd October, 1992/Kartika 1, 1914 (Saka)

THE WILD LIFE (PROTECTION) AMENDMENT
ORDINANCE, 1992

No. 20 of 1992

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance further to amend the Wild Life (Protection) Act, 1972.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Wild Life (Protection) Amendment Ordinance, 1992.

(2) It shall be deemed to have come into force on the 4th day of August, 1992.
2. In the Wild Life (Protection) Act, 1972, in the proviso to subsection (1) of section 38H, for the words “six months from the date of such commencement”, the words “eighteen months from the date of such commencement” shall be substituted.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 28th December, 1992/Pusa 7, 1914 (Saka)

THE RAJASTHAN MUNICIPALITIES (AMENDMENT) ORDINANCE, 1992

No. 21 OF 1992

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance further to amend the Rajasthan Municipalities Act, 1959.

WHEREAS by a Proclamation issued on the 15th day of December, 1992 by the President under article 356 of the Constitution, the powers of the Legislature of the State of Rajasthan have been declared to be exercisable by or under the authority of Parliament.

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Rajasthan Municipalities (Amendment) Ordinance, 1992.
(2) It shall come into force at once.

2. In the proviso to sub-section (1) of section 23 of the Rajasthan Municipalities Act, 1959 (hereinafter referred to as the principal Act), for the words "two years" occurring at the end, the words "three years" shall be substituted.

3. In sub-section (1) of section 293-A of the principal Act, for the words "two years" at both the places where they occur, the words "three years" shall be substituted.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
Repealed by Act 34 of 1933, s. 5

रिपेल्ड बाय एक्ट 34 ऑफ 1933, स. 5

REGISTERED No. DL-33004/92

भारत का राजपत्र

The Gazette of India

EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 3

NEW DELHI, SATURDAY, JANUARY 2, 1993/PAUSA 12, 1914

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 2nd January, 1993/PAUSA 12, 1914 (Saka)

THE ESSENTIAL COMMODITIES (SPECIAL PROVISIONS) AMENDMENT ORDINANCE, 1993

No. 1 of 1993

PROMULGATED by the President in the Forty-third Year of the Republic of India

An Ordinance further to amend the Essential Commodities (Special Provisions) Act, 1981 and to make special provision by way of amendment to the Essential Commodities Act, 1955.

Whereas the Essential Commodities (Special Provisions) Amendment Ordinance, 1992, to provide for the aforesaid matters was promulgated by the President on the 27th day of August, 1992;

And Whereas the Essential Commodities (Special Provisions) Amendment Bill, 1992 was introduced in the House of the People to replace the said Ordinance, but has not been passed;

And Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 125 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Act may be called the Essential Commodities (Special Provisions) Amendment Ordinance 1993.

(2) It shall be deemed to have come into force on the 27th day of August, 1992.
2. In paragraph 2 of the preamble to the Essential Commodities (Special Provisions) Act, 1981 (hereinafter referred to as the principal Act), for the words “ten years”, the words “fifteen years” shall be substituted.

3. In section 1 of the principal Act, in sub-section (3), for the words “ten years”, the words “fifteen years” shall be substituted.

4. After section 9 of the principal Act, the following section shall be inserted:

9A. In the Essential Commodities Act, 1955, after section 10A, the following section shall be inserted namely:

10AA. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no officer below the rank of an officer in charge of a police station or any police officer authorised by him in this behalf in writing, shall arrest any person accused of committing an offence punishable under this Act."

5. (1) The Essential Commodities (Special Provisions) Amendment Ordinance, 1992 is hereby repealed.

(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 Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 2nd January, 1993/Pañca 12, 1914 (Saka)

THE INDIAN MEDICAL COUNCIL (AMENDMENT) ORDINANCE, 1993

No. 2 of 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance further to amend the Indian Medical Council Act, 1956.

Whereas the Indian Medical Council (Amendment) Ordinance, 1992, to provide for the aforesaid matter was promulgated by the President on the 27th day of August, 1992;

And whereas the Indian Medical Council (Amendment) Bill, 1992, to replace the said Ordinance has been passed by the Council of States and is pending in the House of the People;

And whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (i) This Ordinance may be called the Indian Medical Council (Amendment) Ordinance, 1993.

(2) It shall be deemed to have come into force on the 27th day of August, 1992.
2. After section 10 of the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely:

'10A. (1) Notwithstanding anything contained in this Act or any other law for the time being in force,—

(a) no person shall establish a medical college; or

(b) no medical college shall—

(i) open a new or higher course of study or training (including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the award of any recognised medical qualification; or

(ii) increase its admission capacity in any course of study or training (including a post-graduate course of study or training),

except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

Explanation 1.—For the purposes of this section “person” includes any University or a trust but does not include the Central Government.

Explanation 2.—For the purposes of this section, “admission capacity”, in relation to any course of study or training (including post-graduate course of study or training) in a medical college, means the maximum number of students that may be fixed by the Council from time to time for being admitted to such course or training.

(2) (a) Every person or medical college shall, for purpose of obtaining permission under sub-section (1), submit to the Central Government a scheme in accordance with the provisions of clause (b) and the Central Government shall refer the scheme to the Council for its recommendations.

(b) The scheme referred to in clause (a) shall be in such form and contain such particulars and be preferred in such manner and be accompanied with such fee as may be prescribed.

(3) On receipt of a scheme by the Council under sub-section (2), the Council may obtain such other particulars as may be considered necessary by it from the person or the medical college concerned, and thereafter, it may,—

(a) if the scheme is defective and does not contain any necessary particulars, give a reasonable opportunity to the person or college concerned for making a written representation and it shall be open to such person or medical college to rectify the defects, if any, specified by the Council;

(b) consider the scheme, having regard to the factors referred to in sub-section (7), and submit the scheme together with its recommendations thereon to the Central Government.

(4) The Central Government may, after considering the scheme and the recommendations of the Council under sub-section (3) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person or college concerned,
and having regard to the factors referred to in sub-section (7), either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme and any such approval shall be a permission under sub-section (1):

Provided that no scheme shall be disapproved by the Central Government except after giving the person or college concerned a reasonable opportunity of being heard:

Provided further that nothing in this sub-section shall prevent any person or medical college whose scheme has not been approved by the Central Government to submit a fresh scheme and the provisions of this section shall apply to such scheme, as if such scheme has been submitted for the first time under sub-section (4).

(5) Where, within a period of one year from the date of submission of the scheme to the Central Government under sub-section (4), no order passed by the Central Government has been communicated to the person or college submitting the scheme, such scheme shall be deemed to have been approved by the Central Government in the form in which it had been submitted, and, accordingly, the permission of the Central Government required under sub-section (1) shall also be deemed to have been granted.

(6) In computing the time-limit specified in sub-section (5), the time taken by the person or college concerned submitting the scheme, in furnishing any particulars called for by the Council, or by the Central Government, shall be excluded.

(7) The Council, while making its recommendations under clause (b) of sub-section (3) and the Central Government, while passing an order, either approving or disapproving the scheme under sub-section (4), shall have due regard to the following factors, namely:

(a) whether the proposed medical college or the existing medical college seeking to open a new or higher course of study or training would be in a position to offer the minimum standards of medical education as prescribed by the Council under section 19A or, as the case may be, under section 20 in the case of postgraduate medical education;

(b) whether the person seeking to establish a medical college or the existing medical college seeking to open a new or higher course of study or training or to increase its admission capacity has adequate financial resources;

(c) whether necessary facilities in respect of staff, equipment, accommodation, training and other facilities to ensure proper functioning of the medical college or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(d) whether adequate hospital facilities, having regard to the number of students likely to attend such medical college or course of study or training or as a result of the increased admission capacity, have been provided or would be provided within the time-limit specified in the scheme;
(e) whether any arrangement has been made or programme drawn to impart proper training to students likely to attend such medical college or course of study or training by persons having the recognised medical qualifications;

(f) the requirement of manpower in the field of practice of medicine; and

(g) any other factors as may be prescribed.

(8) Where the Central Government passes an order either approving or disapproving a scheme under this section, a copy of the order shall be communicated to the person or college concerned.

10B. (1) Where any medical college is established except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any student of such medical college shall be a recognised medical qualification for the purposes of this Act.

(2) Where any medical college opens a new or higher course of study or training (including a post-graduate course of study or training) except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any student of such medical college on the basis of such study or training shall be a recognised medical qualification for the purposes of this Act.

(3) Where any medical college increases its admission capacity in any course of study or training except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any student of such medical college on the basis of the increase in its admission capacity shall be a recognised medical qualification for the purposes of this Act.

Explanation.—For the purposes of this section, the criteria for identifying a student who has been granted a medical qualification on the basis of such increase in the admission capacity shall be such as may be prescribed.

10C. (1) If, after the 1st day of June, 1992 and on and before the commencement of the Indian Medical Council (Amendment) Ordinance, 1992 any person has established a medical college or any medical college has opened a new or higher course of study or training or increased the admission capacity, such person or medical college as the case may be, shall seek, within a period of one year from the commencement of the Indian Medical Council (Amendment) Ordinance, 1992, the permission of the Central Government in accordance with the provisions of section 10A.

(2) If any person or medical college, as the case may be, fails to seek the permission under sub-section (1), the provisions of section 10B shall apply, so far as may be, as if, permission of the Central Government under section 10A has been refused.

3. In section 33 of the principal Act, after clause (f), the following clauses shall be inserted, namely:—

"(fa) the form of the scheme, the particulars to be given in such scheme, the manner in which the scheme is to be preferred..."
Sec. 1] THE GAZETTE OF INDIA EXTRAORDINARY

and the fee payable with the scheme under clause (b) of sub-section (2) of section 10A;

(f) any other factors under clause (g) of sub-section (7) of section 10A;

(f) the criteria for identifying a student who has been granted a medical qualification referred to in the Explanation to sub-section (3) of section 10B.

4. (1) The Indian Medical Council (Amendment) Ordinance, 1992 is hereby repealed.

(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 Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Gov. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 2nd January, 1993/Pasha 12, 1914 (Saka)

THE DENTISTS (AMENDMENT) ORDINANCE, 1993

No. 3 of 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance further to amend the Dentists Act, 1948.

WHEREAS the Dentists (Amendment) Ordinance 1992 to provide for the aforesaid matter was promulgated by the President on the 27th day of August, 1992;

AND WHEREAS the Dentists (Amendment) Bill, 1992 to replace the said Ordinance has been passed by the Council of States and is pending in the House of the People;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Dentists (Amendment) Ordinance, 1993.

       (2) It shall be deemed to have come into force on the 27th day of August, 1992.
2. After section 10 of the Dentists Act, 1948 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely:—

'10A. (1) Notwithstanding anything contained in this Act or any other law for the time being in force,—

(a) no person shall establish an authority or institution for a course of study or training (including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the grant of recognised dental qualification; or

(b) no authority or institution conducting a course of study or training (including a post-graduate course of study or training) for grant of recognised dental qualification shall—

(i) open a new or higher course of study or training (including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the award of any recognised dental qualification; or

(ii) increase its admission capacity in any course of study or training (including a post-graduate course of study or training), except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

Explanation 1.—For the purposes of this section, "person" includes any University or a trust but does not include the Central Government.

Explanation 2.—For the purposes of this section, "admission capacity", in relation to any course of study or training (including a post-graduate course of study or training) in an authority or institution granting recognised dental qualification, means the maximum number of students that may be fixed by the Council from time to time for being admitted to such course or training.

(2) (a) Every person, authority or institution granting recognised dental qualification shall, for the purpose of obtaining permission under sub-section (1), submit to the Central Government a scheme in accordance with the provisions of clause (b) and the Central Government shall refer the said scheme to the Council for its recommendations.

(b) The scheme referred to in clause (a) shall be in such form and contain such particulars and be preferred in such manner and be accompanied with such fee as may be prescribed.

(3) On receipt of a scheme by the Council under sub-section (2), the Council may obtain such other particulars as may be considered necessary by it from the person, authority or institution concerned, granting recognised dental qualification and thereafter, it may—

(a) if the scheme is defective and does not contain any necessary particulars, give a reasonable opportunity to the
person, authority or institution concerned for making a written representation and it shall be open to such person, authority or institution to rectify the defects, if any, specified by the Council;

(b) consider the scheme, having regard to the factors referred to in sub-section (7), and submit the scheme together with its recommendations thereon to the Central Government.

(4) The Central Government may, after considering the scheme and the recommendations of the Council under sub-section (3) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person, authority or institution concerned, and having regard to the factors referred to in sub-section (7), either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme and any such approval shall be a permission under sub-section (1):

Provided that no scheme shall be disapproved by the Central Government except after giving the person, authority or institution concerned granting recognised dental qualification a reasonable opportunity of being heard:

Provided further that nothing in this sub-section shall prevent any person, authority or institution whose scheme has not been approved to submit a fresh scheme and the provisions of this section shall apply to such scheme, as if such scheme has been submitted for the first time under sub-section (4).

(5) Where, within a period of one year from the date of submission of the scheme to the Central Government under sub-section (4), no order passed by the Central Government has been communicated to the person, authority or institution submitting the scheme, such scheme shall be deemed to have been approved by the Central Government in the form in which it had been submitted, and, accordingly, the permission of the Central Government required under sub-section (1) shall also be deemed to have been granted.

(6) In computing the time-limit specified in sub-section (5), the time taken by the person, authority or institution concerned submitting the scheme in furnishing any particular called for by the Council or by the Central Government, shall be excluded.

(7) The Council, while making its recommendations under clause (b) of sub-section (3) and the Central Government, while passing an order either approving or disapproving the scheme under sub-section (4), shall have due regard to the following factors, namely:

(a) whether the proposed authority or institution for grant of recognised dental qualification or the existing authority or institution seeking to open a new or higher course of study or training, would be in a position to offer the minimum standards of dental education in conformity with the requirements referred to in section 16A and the regulations made under sub-section (1) of section 20;

(b) whether the person seeking to establish an authority or institution or the existing authority or institution seeking to
open a new or higher course of study or training or to increase its admission capacity has adequate resources;

(c) whether necessary facilities in respect of staff, equipment, accommodation, training and other facilities to ensure proper functioning of the authority or institution or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(d) whether adequate hospital facilities, having regard to the number of students likely to attend such authority or institution or course of study or training or as a result of the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(e) whether any arrangement has been made or programme drawn to impart proper training to persons likely to attend such authority or institution or course of study or training by persons having the recognised dental qualifications;

(f) the requirement of manpower in the field of practice of dentistry; and

(g) any other factors as may be prescribed.

(8) Where the Central Government passes an order either approving or disapproving a scheme under this section, a copy of the order shall be communicated to the person, authority or institution concerned.

10B. (1) Where any authority or institution is established for grant of recognised dental qualification except with the previous permission of the Central Government in accordance with the provisions of section 10A, no dental qualification granted to any student of such authority or institution shall be a recognised dental qualification for the purposes of this Act.

(2) Where any authority or institution granting recognised dental qualification opens a new or higher course of study or training (including a post-graduate course of study or training) except with the previous permission of the Central Government in accordance with the provisions of section 10A, no dental qualification granted to any student of such authority or institution on the basis of such study or training shall be a recognised dental qualification for the purposes of this Act.

(3) Where any authority or institution granting recognised dental qualification increases its admission capacity in any course of study or training (including a post-graduate course of study or training) except with the previous permission of the Central Government in accordance with the provisions of section 10A, no dental qualification granted to any student of such authority or institution on the basis of the increase in its admission capacity shall be a recognised dental qualification for the purposes of this Act.

Explanation.—For the purposes of this section, the criteria for identifying a student who has been granted a dental qualification on the basis of such increase in the admission capacity shall be such as may be prescribed.
10C. (1) If, after the 1st day of June, 1992 and on and before the commencement of the Dentists (Amendment Ordinance, 1992 any person has established an authority or institution for grant of recognised dental qualification or any authority or institution granting recognised dental qualification has opened a new or higher course of study or training (including a post-graduate course of study or training) or increased its admission capacity, such person, authority or institution as the case may be, shall seek, within a period of one year from the commencement of the Dentists (Amendment) Ordinance, 1992, the permission of the Central Government in accordance with the provisions of section 10A.

(2) If any person or, as the case may be, any authority or institution granting recognised dental qualification fails to seek the permission under sub-section (1), the provisions of section 10B shall apply, so far as may be, as if permission of the Central Government under section 10A has been refused.²

3. In section 20 of the principal Act, in sub-section (2), after clause (f), the following clauses shall be inserted, namely:—

“(fa) prescribe the form of the scheme, the particulars to be given in such scheme, the manner in which the scheme is to be preferred and the fee payable with the scheme under clause (b) of sub-section (2) of section 10A;

(fb) prescribe any other factors under clause (g) of sub-section (7) of section 10A;

(fc) prescribe the criteria for identifying a student who has been granted a dental qualification referred to in the Explanation to sub-section (3) of section 10B.”

4. (1) The Dentists (Amendment) Ordinance, 1992 is hereby repealed.

(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 Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 2nd January, 1993/Pusa 12, 1914 (Saka)

THE INTEREST ON DELAYED PAYMENTS TO SMALL SCALE AND ANCILLARY INDUSTRIAL UNDERTAKINGS
ORDINANCE 1993

No. 4 of 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to provide for and regulate the payment of interest on delayed payments to small scale and ancillary industrial undertakings and for matters connected therewith or incidental thereto.

WHEREAS the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1992 to provide for the aforesaid matters, was promulgated by the President on the 23rd day of September, 1992;

AND WHEREAS the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Bill, 1982 was introduced in the House of the People to replace the said Ordinance, but has not been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;
Now therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings, Ordinance 1992.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 23rd day of September, 1992.

2. In this Ordinance, unless the context otherwise requires,—

(a) “ancillary industrial undertaking” has the meaning assigned to it by clause (oz) of section 3 of the Industries (Development and Regulation) Act, 1951;

(b) “appointed day” means the day following immediately after the expiry of the period of thirty days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier;

Explanation.—For the purposes of this clause,—

(i) “the day of acceptance” means,—

(a) the day of the actual delivery of goods or the rendering of services; or

(b) where any objection is made in writing by the buyer regarding acceptance of goods or services within thirty days from the day of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier;

(ii) “the day of deemed acceptance” means, where no objection is made in writing by the buyer regarding acceptance of goods or services within thirty days from the day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services;

(c) “buyer” means whoever buys any goods or receives any services from a supplier for consideration;

(d) “goods” means every kind of movable property other than actionable claims and money;

(e) “small scale industrial undertaking” has the meaning assigned to it by clause (j) of section 3 of the Industries (Development and Regulation) Act, 1951;

(f) “supplier” means an ancillary industrial undertaking or a small scale industrial undertaking holding a permanent registration certificate issued by the Directorate of Industries of a State or Union territory.

3. Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day.
4. Where any buyer fails to make payment of the amount to the supplier, as required under section 3, the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay interest to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at such rate which is five per cent. points above the floor rate for comparable lending.

Explanation.—For the purposes of this section, “floor rate for comparable lending” means the highest of the minimum lending rates charged by scheduled banks (not being co-operative banks) on credit limits in accordance with the directions given or issued to banking companies generally by the Reserve Bank of India under the Banking Regulation Act, 1949.

5. Notwithstanding anything contained in any agreement between a supplier and a buyer or in any law for the time being in force, the buyer shall be liable to pay compound interest (with monthly rests) at the rate mentioned in section 4 on the amount due to the supplier.

6. The amount due from a buyer, together with the amount of interest calculated in accordance with the provisions of section 4 and 5, shall be recoverable by the supplier from the buyer by way of a suit or other proceeding under any law for the time being in force.

7. No appeal against any decree, award or other order shall be entertained by any court or other authority unless the appellant (not being a supplier) has deposited with it seventy-five per cent. of the amount in terms of the decree, award or, as the case may be, other order in the manner directed by such court or, as the case may be, such authority.

8. Where any buyer is required to get his annual accounts audited under any law for the time being in force, such buyer shall specify the amount together with the interest in his annual statement of accounts as remains unpaid to any supplier at the end of each accounting year.

9. Notwithstanding anything contained in the Income-tax Act, 1961, the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Ordinance, shall not, for the purposes of computation of income under that Act, be allowed as deduction.

10. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.
4. Where any buyer fails to make payment of the amount to the supplier, as required under section 3, the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay interest to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at such rate which is five per cent. points above the floor rate for comparable lending.

Explanation.—For the purposes of this section, “floor rate for comparable lending” means the highest of the minimum lending rates charged by scheduled banks (not being co-operative banks) on credit limits in accordance with the directions given or issued to banking companies generally by the Reserve Bank of India under the Banking Regulation Act, 1949.

5. Notwithstanding anything contained in any agreement between a supplier and a buyer or in any law for the time being in force, the buyer shall be liable to pay compound interest (with monthly rests) at the rate mentioned in section 4 on the amount due to the supplier.

6. The amount due from a buyer, together with the amount of interest calculated in accordance with the provisions of section 4 and 5, shall be recoverable by the supplier from the buyer by way of a suit or other proceeding under any law for the time being in force.

7. No appeal against any decree, award or other order shall be entertained by any court or other authority unless the appellant (not being a supplier) has deposited with it seventy-five per cent. of the amount in terms of the decree, award or, as the case may be, other order in the manner directed by such court or, as the case may be, such authority.

8. Where any buyer is required to get his annual accounts audited under any law for the time being in force, such buyer shall specify the amount together with the interest in his annual statement of accounts as remains unpaid to any supplier at the end of each accounting year.

9. Notwithstanding anything contained in the Income-tax Act, 1961, the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Ordinance, shall not, for the purposes of computation of income under that Act, be allowed as deduction.

10. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.
II. (1) The Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1992 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 2nd January, 1993/Pausa 12, 1914 (Saka)

THE INDUSTRIAL FINANCE CORPORATION (TRANSFER OF UNDERTAKING AND REPEAL) ORDINANCE, 1993

No. 5 of 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to provide for the transfer and vesting of the undertaking of the Industrial Finance Corporation of India to and in the Company to be formed and registered as a Company under the Companies Act, 1956, and for matters connected therewith or incidental thereto and also to repeal the Industrial Finance Corporation Act, 1948.

WHEREAS the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Ordinance, 1992, to provide for the aforesaid matters was promulgated by the President on the 1st day of October, 1992;

AND WHEREAS the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Bill, 1992 was introduced in the House of the People to replace the said Ordinance, but has not been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

(1)
NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Act may be called the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Ordinance, 1982.

(2) It shall be deemed to have come into force on the 1st day of October, 1982.

2. In this Ordinance, unless the context otherwise requires,—

(a) "appointed day" means such date as the Central Government may, by notification in the Official Gazette, appoint under section 3;

(b) "Company" means the Industrial Finance Corporation of India Limited to be formed and registered under the Companies Act, 1956;

(c) "Corporation" means the Industrial Finance Corporation of India established under sub-section (1) of section 3 of the Industrial Finance Corporation Act, 1948.

3. On such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be transferred to, and vest in, the Company the undertaking of the Corporation.

4. (1) Every shareholder of the Corporation immediately before the appointed day shall be deemed to be registered on and from the appointed day as a shareholder of the Company to the extent of the face value of the shares held by such shareholder.

(2) The undertaking of the Corporation which is transferred to and which vests in the Company under section 3 shall be deemed to include all business, assets, rights, powers, authorities and privileges and all properties, movable and immovable, real and personal, corporeal and incorporeal, in possession or reservation, present or contingent of whatever nature and whereabouts situate including lands, buildings, vehicles, cash balances, deposits, foreign currencies, disclosed and undisclosed reserves, reserve fund, special reserve fund, benevolent reserve fund, any other fund, stocks, investments, shares, bonds, debentures, security, management of any industrial concern, loans, advances and guarantees given to industrial concerns, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of the Corporation in relation to its undertaking, within or without India, all books of accounts, registers, records and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind within or without India then subsisting of the Corporation in relation to its undertaking.

(3) All contracts, deeds, bonds, guarantees, powers of attorney other instruments and working arrangements subsisting immediately before
the appointed day and affecting the Corporation shall cease to have effect or to be enforceable against the Corporation and shall be of as full force and effect against or in favour of the Company in which the undertaking of the Corporation has vested by virtue of this Ordinance and enforceable as fully and effectually as if instead of the Corporation, the Company had been named therein or had been a party thereto.

(4) Any proceeding or cause of action pending or existing immediately before the appointed day by or against the Corporation in relation to its undertaking may, as from the appointed day, be continued and enforced by or against the Company in which the undertaking of the Corporation has vested by virtue of this Ordinance as it might have been enforced by or against the Corporation if this Ordinance had not been promulgated and shall cease to be enforceable by or against the Corporation.

5. With effect from the appointed day, all fiscal and other concessions, licences, benefits, privileges and exemptions granted to the Corporation in connection with the affairs and business of the Corporation under any law for the time being in force shall be deemed to have been granted to the Company.

6. (1) Where any exemption from, or any assessment with respect to, any tax has been granted or made or any benefit by way of set off or carry forward of any unabsorbed depreciation or investment allowance or other allowance or loss has been extended or is available to the Corporation under the Income-tax Act, 1961, such exemption, assessment or benefit shall continue to have effect in relation to the Company.

(2) Where any payment made by the Corporation is exempt from deduction of tax at source under any provision of the Income-tax Act, 1961, such exemption will continue to be available as if the provisions of the said Act made applicable to the Corporation were operative in relation to the Company.

(3) The transfer and vesting of the undertaking or any part thereof in terms of section 3 shall not be construed as a transfer within the meaning of the Income-tax Act, 1961 for the purposes of capital gains.

7. Any guarantee given for or in favour of the Corporation with respect to any loan, lease, finance or other assistance shall continue to be operative in relation to the Company.

8. (1) Every officer or other employee of the Corporation (except Director of the Board, Chairman or Managing Director) serving in the employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in the Company by virtue of this Ordinance, become, as from the appointed day, an officer or, as the case may be, other employee of the Company and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, leave fare concession, welfare scheme, medical benefit scheme, insurance, provident fund, other funds, retirement, voluntary retirement, gratuity and other benefits as he would have held under the...
Corporation if its undertaking had not vested in the Company and shall continue to do so as an officer or, as the case may be, other employee of the Company or until the expiry of a period of six months from the appointed day if such officer or other employee opts not to continue to be the officer or other employee of the Company within such period.

(2) Where an officer or other employee of the Corporation opts under sub-section (1) not to be in employment or service of the Company, such officer or other employee shall be deemed to have resigned.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of the Corporation to the Company shall not entitle such officer or other employee to any compensation under this Ordinance or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(4) The officers and other employees who have retired before the appointed day from the service of the Corporation and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the Company.

(5) The trust of the provident fund or the gratuity fund of the Corporation and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the Company as was being done hitherto in the Corporation and any tax exemption granted to the provident fund or the gratuity fund would continue to be applied to the Company.

(6) Notwithstanding anything contained in this Ordinance or in the Companies Act, 1956 or in any other law for the time being in force or in the regulations of the Corporation, no Director of the Board, Chairman, Managing Director or any other person entitled to manage the whole or substantial part of the business and affairs of the Corporation shall be entitled to any compensation against the Corporation or the Company for the loss of office or for the premature termination of any contract of management entered into by him with the Corporation.

9. The Company shall be deemed to be a bank for the purposes of the Bankers' Books Evidence Act, 1891.

10. Notwithstanding anything contained in any other law for the time being in force, the shares, bonds and debentures of the Company shall be deemed to be approved securities for the purposes of the Indian Trusts Act, 1882, the Insurance Act, 1938 and the Banking Regulation Act, 1949.

11. (1) On the appointed day, the Industrial Finance Corporation Act, 1948 shall stand repealed.
(2) Notwithstanding the repeal of the Industrial Finance Corporation Act, 1948, the Company shall, so far as may be, comply with the provisions of sections 33, 34, 34A, 35 and 43 of the Act so repealed for any of the purposes related to the annual accounts of the Corporation.

12. (1) The Industrial Finance Corporation (Transfer of Undertaking and Repeal) Ordinance, 1992 is hereby repealed.

(2) Notwithstanding the repeal of the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Ordinance, 1992, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
THE MULTIMODAL TRANSPORTATION OF GOODS ORDINANCE, 1993

No. 6 of 1993

Promulgated [by the President in the Forty-third Year of the Republic of India].

An Ordinance to provide for the regulation of the multimodal transportation of goods, from any place in India to a place outside India, on the basis of a multimodal transport contract and for matters connected therewith or incidental thereto.

WHEREAS the Multimodal Transportation of Goods Ordinance, 1992 to provide for the aforesaid matters was promulgated by the President on the 16th day of October, 1992;

AND WHEREAS the Multimodal Transportation of Goods Bill, 1992 was introduced in the Council of States to replace the said Ordinance, and the said Bill has been passed by the Council of States and is pending in the House of the People;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—
CHAPTER I
PRELIMINARY

1. (1) This Ordinance may be called the Multimodal Transportation of Goods Ordinance, 1993.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 16th day of October, 1992.

2. In this Ordinance, unless the context otherwise requires,—

(a) “carrier” means a person who is engaged in the business of transporting for hire goods, by road, rail, inland waterways or sea;

(b) “competent authority” means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Ordinance;

(c) “consignee” means the person named as consignee in the multimodal transport contract;

(d) “consignment” means the goods entrusted to a multimodal transport operator for multimodal transportation;

(e) “consignor” means the person, named in the multimodal transport contract as consignor, by whom or on whose behalf the goods covered by such contract are entrusted to a multimodal transport operator for multimodal transportation;

(f) “delivery” means,—

(i) in the case of a negotiable multimodal transport document, delivering of the consignment to, or placing the consignment at the disposal of, the consignee or any other person entitled to receive it;

(ii) in the case of a non-negotiable multimodal transport document, delivering of the consignment to, or placing the consignment at the disposal of, the consignee or any person authorised by the consignee to accept delivery of the consignment on his behalf;

(g) “endorsee” means the person in whose favour an endorsement is made, and in the case of successive endorsements, the person in whose favour the last endorsement is made;

(h) “endorsement” means the signing by the consignee or the endorsee after adding a direction on a negotiable multimodal transport document to pass the property in the goods mentioned in such document to a specified person;

(i) “goods” includes—

(I) containers, pallets or similar articles of transport used to consolidate goods; and

(II) animals;

(j) “mode of transport” means carriage of goods by road, rail, inland waterways or sea;

(k) “multimodal transportation” means carriage of goods by two or more modes of transport from the place of acceptance of the goods in India to a place of delivery of the goods outside India;
(l) "multimodal transport contract" means a contract entered into by the consignor and the multimodal transport operator for multimodal transportation;

(m) "multimodal transport operator" means any person who—

(i) concludes a multimodal transport contract on his own behalf or through another person acting on his behalf;

(ii) acts as principal, and not as an agent either of the consignor or of the carrier participating in the multimodal transportation, and who assumes responsibility for the performance of the said contract; and

(iii) is registered under sub-section (3) of section 4;

(n) "negotiable multimodal transport document" means a multimodal transport document which is—

(i) made out to order or to bearer; or

(ii) made out to order and is transferable by endorsement; or

(iii) made out to bearer and is transferable without endorsement;

(o) "non-negotiable multimodal transport document" means a multimodal transport document which indicates only one named consignee;

(p) "prescribed" means prescribed by rules made under this Ordinance;

(q) "registration" means registration of multimodal transport operator under sub-section (3) of section 4.

CHAPTER II

REGULATION OF MULTIMODAL TRANSPORTATION

3. No person shall carry on or commence the business of multimodal transportation unless he is registered under this Ordinance:

Provided that a person carrying on the business of multimodal transportation immediately before the commencement of this Ordinance, may continue to do so for a period of three months from such commencement; and if he has made an application for registration within the said period, till the disposal of such application.

4. (1) Any person may apply for registration to the competent authority to carry on or commence the business of multimodal transportation.

(2) An application under sub-section (1) shall be made in such form as may be prescribed and shall be accompanied by a fee of ten thousand rupees.

(3) On receipt of the application, the competent authority shall satisfy that the applicant fulfils the following conditions, namely:—

(c) (i) that the applicant is a shipping company or a company engaged in the business of freight forwarding in India or abroad with a minimum annual turnover of fifty lakh rupees during the immediate preceding financial year or an average annual turnover of fifty lakh rupees during the preceding three financial years as certified by a chartered accountant within the meaning of the Chartered Accountants Act, 1949;
(ii) that if the applicant is a company other than a company specified in sub-clause (i), the subscribed share capital of such company is not less than fifty lakh rupees;

(b) that the applicant has offices or agents or representatives in not less than two other countries,

and on being so satisfied, register the applicant as a multimodal transport operator and grant a certificate to it to carry on or commence the business of multimodal transportation;

Provided that the competent authority may, for reasons to be recorded in writing, refuse to grant registration if it is satisfied that the applicant does not fulfil the said conditions.

(f) A certificate granted under sub-section (3) shall be valid for a period of one year and may be renewed from time to time for a further period of one year at a time.

(5) An application for renewal shall be made in such form as may be prescribed and shall be accompanied by a fee of two thousand rupees.

5. The competent authority may, if it is satisfied at any time after registration that—

(a) any statement in, or in relation to, any application under sub-section (2) of section 4 or its renewal under sub-section (5) of that section, is incorrect or false in any material particular; or

(b) any of the provisions of this Ordinance or the rules made thereunder has been contravened by the multimodal transport operator; or

(c) the multimodal transport operator has not entered into any multimodal transport contract during the preceding two years after his registration,

cancel by order the certificate of registration:

Provided that no such registration shall be cancelled unless the multimodal transport operator has been given a reasonable opportunity of showing cause against the proposed action.

6. (1) Any person aggrieved by an order made by the competent authority under section 5 may prefer an appeal to the Central Government within such period as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the prescribed period:

Provided that an appeal may be admitted after the expiry of the prescribed period if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and on payment of such fees as may be prescribed and shall be accompanied by a copy of the order appealed against.

(4) On receipt of any such appeal, the Central Government shall, after giving the parties a reasonable opportunity of being heard and after making such inquiry as it deems proper, make such order as it thinks fit.
CHAPTER III
MULTIMODAL TRANSPORT DOCUMENT

7. (1) Where the consignor and the multimodal transport operator have entered into a contract for the multimodal transportation and the multimodal transport operator has taken charge of the goods, he shall, at the option of the consignor, issue a negotiable or non-negotiable multimodal transport document.

(2) The multimodal transport document shall be signed by the multimodal transport operator or by a person duly authorised by him.

8. (1) Every consignee named in the negotiable or non-negotiable multimodal transport document and every endorsee of such document, as the case may be, to whom the property in the goods mentioned therein shall pass, upon or by reason of such consignment or endorsement, shall have all the rights and liabilities of the consignor.

(2) Nothing contained in sub-section (1) shall prejudice or affect the right of the multimodal transport operator to claim freight from the consignor or enforce any liability of the consignee or endorsee by reason of his being such consignee or endorsee.

9. The multimodal transport document shall contain the following particulars, namely:

(a) the general nature of the goods, the leading marks necessary for identification of the goods, the character of the goods (including dangerous goods), number of packages or units and the gross weight and quantity of the goods;

(b) apparent condition of the goods;

(c) the name and principal place of business of the multimodal transport operator;

(d) the name of the consignor;

(e) the name of the consignee, if specified by the consignor;

(f) the place and date of taking charge of the goods by the multimodal transport operator;

(g) the place of delivery of the goods;

(h) the date or the period of delivery of the goods at the place of delivery:

(i) whether it is negotiable or non-negotiable;

(j) the place and date of its issue;

(k) freight payable by the consignor or the consignee, as the case may be;

(l) the signature of the multimodal transport operator of a person duly authorised by him;

(m) the intended journey route, modes of transport and places of transhipment, if known at the time of its issue;
\(n\) terms of shipment and a statement that the document has been issued subject to and in accordance with this Ordinance; and

\(o\) any other particular which the parties may agree to insert in the document, if any such particular is not inconsistent with any law for the time being in force.

10. (1) Where the multimodal transport operator or a person acting on his behalf knows, or has reasonable grounds to suspect, that the particulars furnished by the consignor in the multimodal transport document do not accurately represent the goods actually taken in charge, or if he has no reasonable means of checking such particulars, the multimodal transport operator or a person acting on his behalf shall insert in the multimodal transport document a reservation specifying the inaccuracies, if any, the grounds of suspicion or the absence of reasonable means of checking the particulars.

(2) Where the multimodal transport operator or a person acting on his behalf fails to insert the reservation in the multimodal transport document relating to the apparent condition of the goods, he shall be deemed to have accepted the goods in apparent good condition.

11. Save as provided in section 10,—

\(a\) the multimodal transport document shall be \textit{prima facie} evidence of the fact the multimodal transport operator has taken charge of the goods as described in the document; and

\(b\) no proof to the contrary by the multimodal transport operator shall be admissible if the multimodal transport document is issued in negotiable form and has been transmitted to the consignee or transferred by the consignee to a third party, if the consignee or the third party has acted in good faith relying on the description of the goods in the document.

12. (1) The consignor shall be deemed to have guaranteed to the multimodal transport operator the adequacy and accuracy, at the time the multimodal transport operator takes charge of the goods, of the particulars referred to in clauses \(a\) and \(b\) of section 9 as furnished by the consignor for insertion in the multimodal transport document.

(2) The consignor shall indemnify the multimodal transport operator against loss resulting from inadequacy or inaccuracy of the particulars referred to in sub-section (1).

(3) The right of the multimodal transport operator under sub-section (2) shall in no way limit his liability under the multimodal transport contract to any person other than the consignor.

CHAPTER IV

RESPONSIBILITIES AND LIABILITIES OF THE MULTIMODAL TRANSPORT OPERATOR

13. (1) The multimodal transport operator shall be liable for loss resulting from—

\(a\) any loss of, or damage to, the consignment;
(b) delay in delivery of the consignment and any consequential loss or damage arising from such delay,

where such loss, damage or delay in delivery took place while the consignment was in his charge:

Provided that the multimodal transport operator shall not be liable if he proves that no fault or neglect on his part or that of his servants or agents had caused or contributed to such loss, damage or delay in delivery:

Provided further that the multimodal transport operator shall not be liable for loss or damage arising out of delay in delivery unless the consignor had made a declaration of interest in timely delivery which has been accepted by the multimodal transport operator.

Explanation.—For the purposes of this sub-section, “delay in delivery” shall be deemed to occur when the consignment has not been delivered within the time expressly agreed upon or, in the absence of such agreement, within a reasonable time required by a diligent multimodal transport operator, having regard to the circumstances of the case, to effect the delivery of the consignment.

(2) If the consignment has not been delivered within ninety consecutive days following the date of delivery expressly agreed upon or the reasonable time referred to in the Explanation to sub-section (1), the claimant may treat the consignment as lost.

14. (1) Where a multimodal transport operator becomes liable for any loss of, or damage to, any consignment, the nature and value whereof have not been declared by the consignor before such consignment has been taken in charge by the multimodal transport operator and the stage of transport at which such loss or damage occurred is not known, then the liability of the multimodal transport operator to pay compensation shall not exceed two Special Drawing Rights per kilogram of the gross weight of the consignment lost or damaged or 666.67 Special Drawing Rights per package or unit lost or damaged, whichever is higher.

Explanation.—For the purposes of this sub-section, where a container, pallet or similar article of transport is loaded with more than one package or unit, the packages or units enumerated in the multimodal transport document, as packed in such container, pallet or similar article of transport shall be deemed as packages or units.

(2) Notwithstanding anything contained in sub-section (1), if the multimodal transportation does not, according to the multimodal transport contract, include carriage of goods by sea or by inland waterways, the liability of the multimodal transport operator shall be limited to an amount not exceeding 8.33 Special Drawing Rights per kilogram of the gross weight of the goods lost or damaged.
15. Where a multimodal transport operator becomes liable for loss of, or damage to, any consignment, the nature and value whereof have not been declared by the consignor before such consignment has been placed in charge by the multimodal transport operator and the stage of transport at which such loss or damage occurred is known, then the liability of the multimodal transport operator for such loss or damage shall be determined in accordance with the provisions of the relevant Law applicable in relation to the mode of transport during the course of which the loss or damage occurred and any stipulation in the multimodal transport contract to the contrary shall be void and unenforceable.

16. Where delay in delivery of the consignment occurs under any of the circumstances mentioned in the Explanation to sub-section (1) of section 13, or any consequential loss or damage arises from such delay, then, the liability of the multimodal transport operator shall be limited to the freight payable for the consignment so delayed.

17. (1) Assessment of compensation for loss of, or damage to, the consignment shall be made with reference to the value of such consignment at the place where, and the time at which, such consignment is delivered to the consignee or at the place and time when, in accordance with the multimodal transport contract, it should have been delivered.

(2) The value of the consignment shall be determined according to the current commodity exchange price, or, if there is no such price, according to the current market price, or, if the current market price is not ascertainable, with reference to the normal value of a consignment of the same kind and quantity.

18. The multimodal transport operator shall not be entitled to the benefit of limitation of liability under any of the provisions of this Chapter if it is proved that the loss, damage or delay in delivery of consignment resulted from an act or omission of the multimodal transport operator with intent to cause such loss, damage or delay or recklessly and with knowledge that such loss, damage or delay would probably result.

19. The multimodal transport operator shall not, in any case, be liable for an amount greater than the liability for total loss of goods for which a person will be entitled to make a claim against him under the provisions of this Ordinance.
20. (1) The delivery of the consignment to the consignee by the multimodal transport operator shall be treated as prima facie evidence of delivery of the goods as described in the multimodal transport document unless notice of the general nature of loss of, or damage to, the goods is given, in writing, by the consignee to the multimodal transport operator at the time of handing over of the goods to the consignee.

(2) Where the loss or damage is not apparent, the provisions of sub-section (1) shall apply unless notice in writing is given by the consignee of the loss of, or damage to, the goods within six consecutive days after the day when the goods were handed over to the consignee.

CHAPTER V
MISCELLANEOUS

21. (1) Where the consignor hands over the prescribed dangerous goods to a multimodal transport operator or any person acting on behalf of such operator, the consignor shall inform him of the nature of the dangerous goods and, if necessary, the precautions to be taken while transporting such goods.

(2) Where the consignor fails to inform the multimodal transport operator or the other person acting on behalf of such operator of the nature of the dangerous goods and such operator or person does not otherwise have knowledge of the dangerous goods—

(a) the consignor shall be liable to the multimodal transport operator or the other person acting on behalf of such operator for all loss resulting from the multimodal transportation of such goods; and

(b) the goods may at any time be unloaded, destroyed or rendered innocuous, as the circumstances may require, without payment of compensation.

22. (1) The multimodal transport operator who has not been paid the amount of consideration stipulated in the multimodal transport contract shall have a lien on the consignment and on the documents in his possession.

(2) Notwithstanding anything contained in sections 13, 16 and 18, the period during which the goods are in possession of the multimodal transport operator in exercise of his right of lien referred to in sub-section (1) shall not be included for the purposes of calculating the time of delay under any of those sections.

23. Notwithstanding anything contained in any other provision of this Ordinance, it shall be lawful for the parties to the multimodal transport contract to include in the multimodal transport document any provision relating to general average.

Explanation.—For the purposes of this section, "general average" means loss, damage or expense reasonably incurred in order to avert danger to property in common peril and in the common interest involved in the multimodal transportation.
24. The multimodal transport operator shall not be liable under any of the provisions of this Ordinance unless action against him is brought within nine months of—

(a) the date of delivery of the goods, or

(b) the date when the goods should have been delivered, or

(c) the date on and from which the party entitled to receive delivery of the goods has the right to treat the goods as lost under sub-section (2) of section 13.

25. Any party to the multimodal transport contract may institute an action in a court which is competent and within the jurisdiction of which is situated one of the following places, namely:—

(a) the principal place of business, or, in the absence thereof, the habitual residence, of the defendant, or

(b) the place where the multimodal transport contract was made, provided that the defendant has a place of business, branch or agency at such place; or

(c) the place of taking charge of the goods for multimodal transportation or the place of delivery thereof; or

(d) any other place specified in the multimodal transport contract and evidenced in the multimodal transport document.

26. (1) The parties to a multimodal transport contract may provide therein that any dispute which may arise in relation to multimodal transportation under the provisions of this Ordinance shall be referred to arbitration.

(2) The arbitration proceeding may be instituted at such place or in accordance with such procedure as may be specified in the multimodal transport document.

27. The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Ordinance, except the power under section 30, shall, in such circumstances and subject to such conditions, if any, as may be specified therein, be exercisable also by such officer or authority as may be specified in the notification.

28. No person registered as a multimodal transport operator shall enter into any contract for multimodal transportation except in accordance with the provisions of this Ordinance and any contract, to the extent it is inconsistent with the said provisions, shall be void and unenforceable.

29. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Ordinance.
30. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:

(a) the forms in which applications shall be made under section 4;

(b) the period within which appeal shall be preferred under subsection (1) of section 6;

(c) the form in which an appeal shall be preferred under section 6 and the amount of fee payable in respect of such appeal;

(d) dangerous goods for the purpose of section 21;

(e) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

31. On and from the date of the commencement of this Ordinance, the enactments specified in Parts I, II and III of the Schedule shall be amended in the manner specified therein.

32. (1) The Multimodal Transportation of Goods Ordinance, 1992 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

THE SCHEDULE

(See section 31)

AMENDMENT OF CERTAIN ENACTMENTS

PART I

Amendments of the Carriers Act, 1865

(3 of 1865)

In the Carriers Act, 1865,—

(a) in section 2, in the definition relating to "common carrier", after the words "engaged in the business of", the words "transporting property under multimodal transport document or of" shall be inserted;
(b) in sections 6, 7 and 8, for the words "property delivered", the words and brackets "property (including container, pallet or similar article of transport used to consolidate goods) delivered" shall, respectively, be substituted;

(c) in sections 9 and 10, for the words "goods entrusted", the words and brackets "goods (including containers, pallets or similar article of transport used to consolidate goods) entrusted" shall, respectively, be substituted.

PART II

Amendment to the Indian Carriage of Goods by Sea Act, 1925

(26 of 1925)

In the Indian Carriage of Goods by Sea Act, 1925,—

(a) in the Preamble, after the second paragraph, the following paragraph shall be inserted, namely:—

"and whereas the said rules were amended by the Protocol signed at Brussels on 23rd February, 1968 and by the Protocol signed at Brussels on 21st December, 1979;",

(b) in section 7, in sub-section (1), for the words and figures "sections 331 and 352", the words, figures and letters "section 331 and Part XA" shall be substituted;

(c) in the Schedule,—

(i) in Article I, in clause (c), after the word "merchandises", the words "containers, pallets or similar article of transport used to consolidate goods if supplied by the shipper," shall be inserted;

(ii) in Article III,—

(1) in paragraph 4, the following shall be added at the end, namely:—

"However, proof to the contrary shall not be admissible when the bill of lading has been transferred to a third party acting in good faith;",

(2) in paragraph 6, in the third sub-paragraph, the following shall be added at the end, namely:—

"This period may, however, be extended if the parties so agree after the cause of action has arisen;

Provided that a suit may be brought after the expiry of the period of one year referred to in this sub-paragraph within a further period of not more than three months as allowed by the court;",

(iii) in Article IV, in paragraph 5,—

(1) for the words and figures "amount exceeding 100 l. per package or unit", the words and figures "amount exceeding 666.67 Special Drawing Rights per package or unit or
two Special Drawing Rights per kilogram of gross weight of the goods lost or damaged, whichever is higher" shall be substituted;

(2) after the first sub-paragraph, the following sub-
paragraphs shall be inserted, namely:

"Where a container, pallet or similar article of
transport is used to consolidate goods, the number of
packages or units enumerated in the bill of lading and
as packed in such article of transport shall be deemed
to be the number of packages or units for the purposes
of this paragraph as far as these packages or units are
concerned.

Neither the carrier nor the ship shall be entitled to
the benefit of limitation of liability provided for in
this paragraph if it is proved that the damage resulted
from an act or omission of the carrier done with intent
to cause damage, or recklessly and with knowledge that
damage would probably result.

Where the nature or value of the goods has been
knowingly misstated by the shipper in the bill of lading,
the liability of the carrier or ship shall not exceed the
value so stated."

PART III

Amendment to the Sale of Goods Act, 1930

(3 of 1930)

In the Sale of Goods Act, 1930, in section 2, in clause (4), after the
words "railway receipt", the words "multimodal transport document;"
shall be inserted.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
EXTRAORDINARY
भाषा—II खण्ड 1
PART II—Section 1
प्रकाशित ने प्रकाशित
PUBLISHED BY AUTHORITY

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(legislative Department)
New Delhi, the 2nd January, 1993/Pausa 12, 1914 (Saka)

THE WILDLIFE (PROTECTION) AMENDMENT ORDINANCE, 1993

No. 7 of 1993

Promulgated by the President in the Forty-third year of the Republic of India.

An Ordinance further to amend the Wild Life (Protection) Act, 1972.

Whereas the Wild Life (Protection) Amendment Ordinance 1992 to provide for the aforesaid matter was promulgated by the President on the 23rd day of October, 1992;

And whereas the Wild Life Protection (Amendment) Bill, 1992 was introduced in the House of the People to replace the said Ordinance, but has not been passed;

And whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Wild Life (Protection) Amendment Ordinance, 1993.

(2) It shall be deemed to have come into force on the 4th day of August, 1992.

Short title and commencement.
2. In the Wild Life (Protection) Act, 1972 (hereinafter referred to as the principal Act), in the proviso to sub-section (1) of section 38H for the words "six months from the date of such commencement", the words "eighteen months from the date of such commencement" shall be substituted.

3. (1) The Wild Life (Protection) Amendment Ordinance, 1992 is hereby repealed.

(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 Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy, to the Govt. of India.
THE ACQUISITION OF CERTAIN AREA AT
AYODHYA ORDINANCE, 1993

No. 8 OF 1993

Promulgated by the President in the Forty-third Year of the
Republic of India.

An Ordinance to provide for the acquisition of certain area
at Ayodhya and for matters connected therewith or incidental
thereto.

WHEREAS there has been a long-standing dispute relating to the structure
(including the premises of the inner and outer courtyards of such structure),
commonly known as the Ram Janma Bhumi-Babri Masjid, situated in village
Kot Ramechandra in Ayodhya, in Pargana Haveli Avadh, in tehsil Faizabad
Sadar, in the district of Faizabad of the State of Uttar Pradesh;

AND WHEREAS the said dispute has affected the maintenance of public
order and harmony between different communities in the country;

AND WHEREAS it is necessary to maintain public order and to promote
communal harmony and the spirit of common brotherhood amongst the people
of India;

AND WHEREAS with a view to achieving the aforesaid objectives, it is
necessary to acquire certain areas in Ayodhya;

AND WHEREAS Parliament is not in session and the President is satisfied
that circumstances exist which render it necessary for him to take immediate
action;
Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

CHAPTER I
PRELIMINARY

1. (1) This Ordinance may be called the Acquisition of Certain Area at Ayodhya Ordinance, 1993.

(2) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,—

(a) "area" means the area (including all the buildings, structures or other properties comprised therein) specified in the Schedule;

(b) "authorised person" means a person or body of person or trustees of any trust authorised by the Central Government under section 7;

(c) "Claims Commissioner" means the Claims Commissioner appointed under sub-section (2) of section 8;

(d) "prescribed" means prescribed by rules made under this Ordinance.

CHAPTER II
ACQUISITION OF THE AREA INAYODHYA

3. On and from the commencement of this Ordinance, the right, title and interest in relation to the area shall, by virtue of this Ordinance, stand transferred to, and vest in, the Central Government.

4. (1) The area shall be deemed to include all assets, rights, leaseholds, powers, authority and privileges and all property, movable and immovable, including lands, buildings, structures, shops of whatever nature or other properties and all other rights and interests in, or arising out of, such properties as were immediately before the commencement of this Ordinance, in the ownership, possession, power or control of any person or the State Government of Uttar Pradesh., as the case may be, and all registers, maps, plans, drawings and other documents of whatever nature relating thereto.

(2) All properties aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting them and any attachment, injunction, decree or order of any court or tribunal or other authority restricting the use of such properties in any manner or appointing any receiver in respect of the whole or any part of such properties shall cease to have any effect.

(3) If, on the commencement of this Ordinance, any suit, appeal or other proceeding in respect of the right, title and interest relating to any property which has vested in the Central Government under section 3, is pending before any court, tribunal or other authority, the same shall abate.
5. (1) The Central Government may take all necessary steps to secure possession of the area which is vested in that Government under section 3.

(2) On the vesting of the area in the Central Government under section 3, the person or State Government of Uttar Pradesh, as the case may be, in charge of the management of the area immediately before such vesting shall be bound to deliver to the Central Government or the authorised person, all assets, registers and other documents in their custody relating to such vesting or where it is not practicable to deliver such registers or documents, the copies of such registers or documents authenticated in the prescribed manner.

6. (2) Notwithstanding anything contained in sections 3, 4, 5 and 7, the Central Government may, if it is satisfied that any authority or other body, or trustees of any trust, set up on or after the commencement of this Ordinance is or are willing to comply with such terms and conditions as that Government may think fit to impose, direct by notification in the Official Gazette, that the right, title and interest in any of them in relation to the area or any part thereof, instead of continuing to vest in the Central Government, vest in that authority or body or trustees of that trust either on the date of the notification or on such later date as may be specified in the notification.

(2) When any right, title and interest in relation to the area or part thereof vest in the authority or body or trustees referred to in sub-section (1), such rights of the Central Government in relation to such area or part thereof, shall, on and from the date of such vesting, be deemed to have become the rights of that authority or body or trustees of that trust.

(3) The provisions of sections 4, 5, 7 and 11 shall, so far as may be, apply in relation to such authority or body or trustees as they apply in relation to the Central Government and for this purpose references therein to the "Central Government" shall be construed as references to such authority or body or trustees.

CHAPTER III

MANAGEMENT AND ADMINISTRATION OF PROPERTY

7. (1) Notwithstanding anything contained in any contract or instrument or order of any court, tribunal or other authority to the contrary, on and from the commencement of this Ordinance, the property vested in the Central Government under section 3 shall be managed by the Central Government or by a person or body of persons or trustees of any trust authorised by that Government in this behalf.

(2) In managing the property vested in the Central Government under section 3, the Central Government or the authorised person shall ensure that the position existing before the commencement of this Ordinance in the area in which the structure (including the premises of the inner and outer courtyards of such structure), commonly known as the Ram Janma Bhumi-Babri Masjid, stood in village Kesi Ramchandra in Ayodhya, in Pargana Haveli Ayadh, in tehsil Faizabad Sadar, in the district of Faizabad of the State of Uttar Pradesh is maintained.
CHAPTER IV

MISCELLANEOUS

8. (1) The owner of any land, building, structure or other property comprised in the area shall be given by the Central Government, for the transfer to and vesting in that Government under section 3 of that land, building, structure or other property, in cash an amount equivalent to the market value of the land, building, structure or other property.

(2) The Central Government shall, for the purpose of deciding the claim of the owner or any person having a claim against the owner under sub-section (1), by notification in the Official Gazette, appoint a Claims Commissioner.

(3) The Claims Commissioner shall regulate his own procedure for receiving and deciding the claims.

(4) The owner or any person having a claim against the owner may make a claim to the Claims Commissioner within a period of ninety days from the date of commencement of this Ordinance:

Provided that if the Claims Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of ninety days, the Claims Commissioner may entertain the claim within a further period of ninety days and not thereafter.

9. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any law other than this Ordinance or any decree or order of any court, tribunal or other authority.

10. Any person who is in charge of the management of the area and fails to deliver to the Central Government or the authorised person any asset, register or other document in his custody relating to such area or, as the case may be, authenticated copies of such register or document, shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to ten thousand rupees, or with both.

11. No suit, prosecution or other legal proceeding shall lie against the Central Government or the authorised person or any of the officers or other employees of that Government or the authorised person for anything which is in good faith done or intended to be done under this Ordinance.

12. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

(2) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be: so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
## The Schedule

### [See Section 2(a)]

### Description of the Area

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### Sec. 11

#### THE GAZETTE OF INDIA EXTRAORDINARY

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Bounded by plot No. 236 on the South, plot No. 239 on the West and plot No. 244 on the North.

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SHANKER DAYAL SHARMA,
President.

A. C. CUNNI,
Additional Secretary to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 8th January, 1993/ Pausa 18, 1914 (Saka)

THE FOREIGN EXCHANGE REGULATION (AMENDMENT) ORDINANCE, 1993
No. 9 OF 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance further to amend the Foreign Exchange Regulation Act, 1973.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (i) This Ordinance may be called the Foreign Exchange Regulation (Amendment) Ordinance, 1993.

(ii) It shall come into force at once.

2. In the Foreign Exchange Regulation Act, 1973 (hereinafter referred to as the principal Act), in the long title, the words “and bullion” shall be omitted.

3. Sections 11 and 12 of the principal Act shall be omitted.

4. In section 13 of the principal Act,—

(a) in sub-section (1), the words “any gold or silver or” shall be omitted;

(b) in sub-section (2), the words “gold, jewellery or precious stones or” shall be omitted.
5. Sections 15 and 17 of the principal Act shall be omitted.

6. In section 18 of the principal Act, after sub-section (10), the following Explanation shall be inserted, namely:—

‘Explanation.— For the purposes of this section, “goods” includes gold, silver, jewellery and precious stones.”.

7. After section 18 of the principal Act, the following section shall be inserted, namely:—

“18A. (1) No person shall, except with the general or special permission of the Reserve Bank, take or send out by land, sea or air any goods from India to any place on lease or hire or under any arrangement other than sale or disposal in any other manner of such goods.

(2) The provisions of section 18 shall, so far as may be, apply to the taking or sending out of goods under sub-section (1).”.

8. In section 19 of the principal Act,—

(a) in sub-section (1), clause (c) shall be omitted;

(b) in sub-section (4), clause (c) shall be omitted,

(c) for sub-sections (5) and (6), the following sub-sections shall be substituted, namely:—

“(5) Notwithstanding anything contained in any other law, no transfer of any share, bond or debenture of a company registered in India made by a person resident outside India or by a national of a foreign State to another person resident in India shall be valid unless such transfer is confirmed by the Reserve Bank on an application made to it in this behalf by the transferor or the transferee.

(6) If the Reserve Bank is of opinion that it is necessary or expedient in the public interest so to do, it may, by general or special permission, exempt any transfer referred to in sub-section (5) or any class of such transfers from the operation of the provisions of that sub-section, subject to such conditions, if any, as may be specified in such permission.”.

9. Sections 20 and 21 of the principal Act shall be omitted.

10. In section 22 of the principal Act, the words “The Central Government may, by notification in the Official Gazette, order that” shall be omitted.

11. Section 23 of the principal Act shall be omitted.

12. In section 25 of the principal Act,—

(a) in sub-section (1), for the words “permission of the Reserve Bank”, the words “general or special permission of the Reserve Bank” shall be substituted;

(b) sub-section (3) shall be omitted.

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

“26. Except with the general or special permission of the Central Government or the Reserve Bank, no person resident in India shall give a guarantee in respect of any debt or other obligation or liability—

(i) of a person resident in India, and due or owing to a person resident outside India, or

(ii) of a person resident outside India.”.
14. Section 27 of the principal Act shall be omitted.

15. In section 28 of the principal Act,—
   (a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:

   "(1) Without prejudice to the provisions of section 47 and notwithstanding anything contained in any other provision of this Act or the Companies Act, 1956, a person resident outside India (whether a citizen of India or not) or a person who is not a citizen of India but is resident in India, or a company (other than a banking company) which is not incorporated under any law in force in India or any branch of such company, shall not, except with the general or special permission of the Reserve Bank, act, or accept appointment, as agent in India of any person or company, in the trading or commercial transactions of such person or company.

   (2) Where any such person or company (including its branch) as is referred to in sub-section (1) acts or accepts appointment as such agent without the permission of the Reserve Bank, such acting or appointment shall be void.";

   (b) in the Explanation, clause (d) shall be omitted.

16. In section 29 of the principal Act,—
   (a) in sub-section (1), the words "or in which the non-resident interest is more than forty per cent." shall be omitted;
   (b) after sub-section (1), the following sub-section shall be inserted, namely:

   "(1A) A company (other than a banking company) in which the non-resident interest is more than forty per cent., shall not, except with the general or special permission of the Reserve Bank, carry on in India any activity relating to agriculture or plantation or acquire the whole or any part of any undertaking in India of any person or company carrying on any activity relating to agriculture or plantation or purchase the shares in such company.";

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

   'Explanation.—For the purposes of this section,—
   (i) "company" has the same meaning as in clause (b) of the Explanation to section 28;
   (ii) "non-resident interest" means participation in the share capital by, or entitlement to the distributable profits of, any individual or company resident outside India, or any company not incorporated under any law in force in India, or any branch of such company whether resident outside India or not.'.

17. In section 30 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:

   "(1) No national of a foreign State shall, without the previous permission of the Reserve Bank, practise any profession or carry on any occupation, trade or business in India in a case where such national desires to acquire any foreign exchange (such foreign exchange being intended for remittance outside India) out of any moneys received by him in India by reason of the practising of such profession or the carrying on of such occupation, trade or business, as the case may be.'.

18. In section 31 of the principal Act, in sub-section (1), the words "or in which the non-resident interest is more than forty per cent." shall be omitted.
19. Section 32 of the principal Act shall be omitted.


21. In section 41 of the principal Act,—

(a) for the words "one year", wherever they occur, the words "six months" shall be substituted;

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

"Provided that the aforesaid period of six months may, for reasons to be recorded in writing, be extended by the Director of Enforcement for a further period not exceeding six months."

22. In section 42 of the principal Act,—

(a) in sub-section (1), after the word and figures "section 18", the words, figures and letter "or section 18A" shall be inserted;

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

"(4) Where any foreign currency, being the subject-matter of any investigation or proceeding referred to in sub-section (1), is in the custody of an officer of Customs or of an officer of Enforcement or of a court, the Collector of Customs, the Director of Enforcement or, as the case may be, the court may, having regard to the security-risk involved in such custody, direct that the foreign currency be deposited in a bank in such manner as he or it may deem fit.

(5) Where any draft, cheque (including traveller's cheque) or other instrument is to be encashed under sub-section (1) or any foreign currency is to be deposited in a bank under sub-section (4), the Collector of Customs, the Director of Enforcement or, as the case may be, the court, may prepare or cause to be prepared an inventory of such draft, cheque or other instrument or foreign currency containing such details relating to its description, mark, numbers, country of origin and other particulars as may appear to be relevant to its identity in any proceeding under this Act and where the inventory is prepared or cause to be prepared by the Collector or the Director, the Collector or, as the case may be, the Director shall make an application to a Magistrate for the purpose of—

(a) certifying the correctness of the inventory so prepared; or

(b) taking, in the presence of the Magistrate photographs of such draft, cheque, other instrument or foreign currency, and certifying such photographs as true.

(6) Where an application is made under sub-section (5), the Magistrate shall, as soon as may be, allow the application."
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(b) in sub-section (3), for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

25. In section 50 of the principal Act, for the word and figures "section 18", the words, figures and letter "section 18, section 18A" shall be substituted.

26. In section 52 of the principal Act,—
   (a) in sub-section (2), after the words "Any person aggrieved by such order may,"., the words "on payment of such fee as may be prescribed and" shall be inserted;
   (b) in sub-section (6), in the second proviso, for the words "fifty thousand rupees", the words "two lakhs and fifty thousand rupees" shall be substituted.

27. In section 53 of the principal Act, in sub-section (2), for the words and figures "sections 480 and 482 of the Code of Criminal Procedure, 1898", the words and figures "sections 345 and 346 of the Code of Criminal Procedure, 1973" shall be substituted.

28. In section 56 of the principal Act,—
   (a) in sub-section (1), for the word and figures "section 18", the words, figures and letter "section 18, section 18A," shall be substituted;
   (b) in sub-sections (2) and (3), for the word and figures "section 18", wherever they occur, the words, figures and letter "section 18 or section 18A" shall be substituted;
   (c) in sub-section (6), for the words and figures "the first proviso to section 188 of the Code of Criminal Procedure, 1898", the words and figures "the proviso to section 188 of the Code of Criminal Procedure, 1973" shall be substituted.

29. In section 58 of the principal Act,—
   (a) in sub-section (1), for the words "be punishable with fine which may extend to two thousand rupees", the words "be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees or with both" shall be substituted;
   (b) in sub-section (2), for the words "two thousand rupees", the words "ten thousand rupees" shall be substituted.

30. In section 61 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

   "(1) Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for any metropolitan magistrate and for any magistrate of the first class to pass a sentence of imprisonment for a term exceeding three years or of fine exceeding five thousand rupees on any person convicted of an offence punishable under section 56."

31. In section 64 of the principal Act, in sub-sections (1) and (2), for the word and figures "section 18", the words, figures and letter "section 18, section 18A," shall be substituted.

32. In section 66 of the principal Act, in sub-section (1), for the words and figures "section 562 of the Code of Criminal Procedure, 1898", the words and figures "section 360 of the Code of Criminal Procedure, 1973" shall be substituted.
33. In section 67 of the principal Act, for the word and figures “section 18”, the words, figures and letter “section 18, section 18A” shall be substituted.

34. In section 71 of the principal Act, in sub-section (3), for the words “two hundred and fifty rupees”, the words “fifteen thousand rupees” shall be substituted.

35. In section 73 of the principal Act, in sub-section (3), the words and figures “persons referred to in sub-section (1) of section 32” shall be omitted.

36. After section 73 of the principal Act, the following section shall be inserted:

“73A. Where any authorised dealer contravenes any direction given by the Reserve Bank under this act or fails to file any return as directed by the Reserve Bank, the Reserve Bank may, after giving a reasonable opportunity of being heard impose on the authorised dealer a penalty which may extend to ten thousand rupees and in the case of continuing contravention with an additional penalty which, may extend to two thousand rupees for every day during which such contravention continues.”

37. In section 74 of the principal Act, in clause (i), for the figures and word “9, 10 or 11”, the figures and word “9 or 10” shall be substituted.

38. In section 79 of the principal Act, in sub-section (2), after clause (d), the following clause shall be inserted, namely:

“(dd) prescribe the fee payable by a person preferring appeal to the Appellate Board under sub-section (2) of section 52;”.

SHANKER DAYAL SHARMA,
President.

A.C.C. UNNI,
Additional Secretary to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 8th January, 1993/Pausa 19, 1914 (Saka)

THE NATIONAL THERMAL POWER CORPORATION
LIMITED, THE NATIONAL HYDROELECTRIC
POWER CORPORATION LIMITED AND THE
NORTH-EASTERN ELECTRIC POWER CORPO-
RATION LIMITED (ACQUISITION AND TRANSFER
OF POWER TRANSMISSION SYSTEMS)
ORDINANCE, 1993.

No. 10 of 1993

Promulgated by the President in the Forty-third Year of the
Republic of India.

An Ordinance to provide in the public interest for the acquisition
and transfer of the power transmission systems of the three
companies and the right, title and interest of those companies
in the power transmission system situated in different parts of
India, with a view to developing the National Power Grid to
ensure transmission of power, within and across the different
regions of India, on a more scientific, efficient and economic
basis and for matters connected therewith or incidental thereto.

WHEREAS a Bill to provide in the public interest for the acquisition
and transfer of the power transmission systems of the three companies and the
right, title and interest of those companies in the power transmission system
situated in different parts of India, with a view to developing the National
Power Grid to ensure transmission of power, within and across the different
regions of India, on a more scientific, efficient and economic basis and for
matters connected therewith or incidental thereto, was introduced in the House
of the People, but has not been passed;

AND WHEREAS Parliament is not in session and the President is satisfied
that circumstances exist which render it necessary for him to take immediate
action to give effect to the provisions of the said Bill;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of
article 123 of the Constitution, the President is pleased to promulgate the
following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the National Thermal Power Cor-
poration Limited, the National Hydroelectric Power Corporation Limited and
the North-Eastern Electric Power Corporation Limited (Acquisition and

(2) It extends to the whole of India except the State of Jammu and
Kashmir.

(3) The provisions of sections 8 to 11 and sections 13 to 16 shall come
into force at once and the other provisions of this Ordinance shall be deemed
to have come into force on the 1st day of April, 1992.

2. In this Ordinance, unless the context otherwise requires,—

(c) "appointed day" means the 1st day of April, 1992;

(b) "associated personnel" means the employees of each of the three
companies associated with its power transmission system;

(c) "Corporation" means the Power Grid Corporation of India
Limited, being a company within the meaning of the Companies Act, 1956
and having its registered office at Hemkunt Chambers, 89, Nehru Place,
New Delhi-110019;

(d) "notification" means a notification published in the Official
Gazette;

(e) "power transmission system", in relation to each company spe-
cified in the First Schedule, means the main transmission lines including
extra high voltage alternating current (EHVAC) lines and high voltage
direct current (HVDG) lines and sub-stations owned by each such
company;

(f) "prescribed" means prescribed by rules made under this Ordi-
nance;

(g) "three companies" means the companies specified in the First
Schedule;

(h) words and expressions used herein and not defined but defined
in the Electricity (Supply) Act, 1948 or as the case may be, the Com-
panies Act, 1956 shall have the meanings, respectively, assigned to them
in those Acts.
have been transferred to, and vested in, the Corporation under sub-section (2) of section 3, instituted or preferred by or against any of the three companies is pending, the same shall not abate, be discontinued or be, in any way, judicially affected by reason of the transfer of the power transmission system of that company or of anything contained in this Ordinance, but the suit, appeal or other proceeding may be continued, prosecuted or enforced, subject to the provisions of sub-section (1) of section 5, by or against the Corporation.

5. (1) Subject to the provisions of sub-section (2), every liability of each of the three companies in relation to its power transmission system, in respect of any period prior to the appointed day, which has been transferred to, and vested in, the Corporation under sub-section (2) of section 3, shall be the liability of the Corporation and shall be enforceable against the Corporation and not against the company:

Provided that nothing contained in this sub-section shall apply to—

(a) the income and expenditure on revenue account relating to any period before the appointed day and received or, as the case may be, incurred by any of the three companies on or after the appointed day;

(b) arrears of depreciation, regarding contingent liabilities on capital account relating to any period before the appointed day, arising on account of the decision of any court, tribunal or other authority.

(2) Where any repayment of a loan or interest, or both, has been made, on or after the appointed day, by any of the three companies to any lending agency, such repayment shall be deemed to have been made by the Corporation and the amount of such repayment shall be reimbursed by the Corporation to the concerned company on adjustment of transmission charges or any other amount due to the Corporation from the concerned company.

6. (1) Where any property is held by any of the three companies in relation to its power transmission system under any lease or right of tenancy, the Corporation shall, on and from the appointed day, be deemed to have become the lessee or tenant, as the case may be, in respect of such property as if the lease or tenancy in relation to such property had been granted to the Corporation and thereupon all the rights under such lease or tenancy shall be deemed to have been transferred to, and vested in, the Corporation.

(2) On the expiry of the term of any lease or tenancy referred to in sub-section (1), such lease or tenancy shall, if so desired by the Corporation, be renewed on the same terms and conditions on which the lease or tenancy was held by any of the three companies immediately before the appointed day.

7. (1) For the removal of doubts, it is hereby declared that the provisions of sections 3, 4, 5 and 6 shall apply to the extent to which any property appertains to the business relating to the power transmission system carried on by the three companies and to the rights and powers acquired, and to debts, liabilities and obligations incurred, and to contracts, agreements and other instruments made by any of the three companies and to legal proceedings relating to those matters pending in any court, tribunal or other authority in India.

(2) If any question arises as to whether any property appertained, on the appointed day, to any business of any of the three companies in relation to its power transmission system, or whether any rights, powers,
debts, liabilities or obligations were acquired or incurred or any contract, or other instrument was made by any of the three companies for purposes of its said business, or whether any document relates to those purposes, the question shall be referred to the Central Government which shall, after giving a reasonable opportunity of being heard to the persons interested in the matter, decide it in such manner as it may think fit.

8. (1) For the transfer to, and vesting in the Central Government under sections 3 and 4, of the power transmission system and the right, title and interest of each of the three companies in relation to its power transmission system, there shall be paid, in the prescribed manner, by the Central Government to each of the three companies such amount as is equal to the book value of all the assets and properties after deduction of liabilities (other than contingent liabilities) given in the audited statement of accounts of each of the three companies as on the 31st day of March, 1992.

(2) For the transfer to, and vesting in, the Corporation under sub-section (2) of section 3 of the power transmission system and the right, title and interest of each of the three companies in relation to its power transmission system, there shall be paid, in the prescribed manner, by the Corporation to the Central Government, the amount which is paid by that Government to the three companies under sub-section (1).

(3) In case of any dispute relating to the nature of any asset, property or liability or the amount payable under sub-section (1), the dispute shall be referred by the Central Government to such authority as it may appoint and the decision of that authority in the matter shall be final.

CHAPTER III

DELIVERY OF ASSETS, ETC., TO THE CORPORATION

9. (1) Any person who has, on the date of commencement of this Ordinance, in his possession or under his control, any assets, books and any other documents relating to the power transmission system which has been transferred to, and vested in, the Corporation under sub-section (2) of section 3, shall be liable to account for the said assets, books and documents to the Corporation and shall deliver them up to the Corporation or to such person or persons as the Corporation may specify in this behalf.

(2) The Corporation may take or cause to be taken all necessary steps for securing possession of the power transmission system which has been transferred to, and vested in, the Corporation under this Ordinance.

(3) Each of the three companies shall, within such period as the Corporation may allow in this behalf, furnish to the Corporation a complete inventory of all its property and assets as on the appointed day pertaining to its power transmission system which has been transferred to, and vested in, the Corporation under sub-section (2) of section 3.
CHAPTER IV

PROVISIONS RELATING TO ASSOCIATED PERSONNEL

10. (1) On the vesting of the power transmission system of each of the companies in the Corporation, the associated personnel who have been immediately on or before the appointed day, employed in any of the three companies and have not already become employees of the Corporation, shall become, on and from the date of commencement of this Ordinance, employees of the Corporation, and shall hold office or serve under the Corporation on the terms and conditions which are not in any way less favourable than those which would have been admissible to them if there had been no such vesting and shall continue to do so until their employment under the Corporation is duly terminated, by law or otherwise.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or any other law for the time being in force, the transfer of the services of the associated personnel to the Corporation shall not entitle such personnel to any compensation under the Ordinance or any other law for the time being in force and no such claim in force and shall be entertained by any court, tribunal or other authority.

11. (1) Where any of the three companies has established a provident fund or any other fund for the benefit of the persons employed by it, the monies, relateable to the associated personnel who have already become employees of the Corporation or whose services have been transferred under this Ordinance to the Corporation, shall be transferred to and vested in the credit of such provident fund or other fund, on and from the date of transfer of the associated personnel, to the Corporation.

III

CHAPTER V

MISCELLANEOUS

12. The provisions of this Ordinance shall have effect notwithstanding anything herein contained to the contrary, and shall have over-riding effect.

13. Any person who, without or contrary to any notice, consent or authority, (a) having in his possession, custody or control any property exercising or forming part of the power transmission system of any of the three companies, wrongfully withholds such property from the Corporation or (b) wrongfully obtains possession of or retains, any property forming part of the power transmission system of any of the three companies;

Penalties.

Penalties.
(c) wilfully withholds or fails to furnish to the Corporation or any person or body of persons specified by the Corporation, any document or inventory relating to the power transmission system of any of the three companies, which may be in his possession, custody or control, or

fails to deliver to the Corporation or any person or body of persons specified by the Corporation, any asset, books of account, registers or other documents in his possession, custody or control relating to the power transmission system of any of the three companies,

shall be punishable with imprisonment for a term which may extend to two years and also with fine which may extend to ten thousand rupees.

14. (1) Where an offence punishable under this Ordinance has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such persons liable to any punishment, if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

15. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Corporation or any of the three companies or any officer of that Government, Corporation or company or any other person authorised by that Government, Corporation or company for anything which is in good faith done or intended to be done under this Ordinance.

16. (1) The Central Government may, by notification make rules for carrying out the provisions of this Ordinance.
(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which the amount is to be paid under sub-section (1) or sub-section (2) of section 8;

(b) the manner in which the monies in any provident fund or other fund, referred to in sub-section (2) of section 11, shall be dealt with;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[See section 2(e) and (g)]

NAMES OF COMPANIES

1. The National Thermal Power Corporation Limited, a company incorporated and registered under the Companies Act, 1956 having its registered office in Core No. 7, SCOPE Complex, Lodhi Road, New Delhi-110003.

2. The National Hydroelectric Power Corporation Limited, a company incorporated and registered under the Companies Act, 1956 having its registered office at Hemkunt Tower, 98, Nehru Place, New Delhi-110019.

3. The North-Eastern Electric Power Corporation Limited, a company incorporated and registered under the Companies Act, 1956 having its registered office at Kharmalki Road, Shillong-793001.

SHANKER DAYAL SHARMA,
President.

A. C. C. UNNI
Additional Secretary to the Govt of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 16th January, 1993/Pause 26, 1914 (Saka)

THE UTTAR PRADESH KRISHI UTPADAN MANDI SAMITIS (ALPAKALIK VYAWASTHA) AMENDMENT ORDINANCE, 1993

No. 11 of 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance further to amend the Uttar Pradesh Krishi Utpadan Mandi Samitis (Alpakalik Vyawastha) Adhinim, 1972.

WHEREAS by a Proclamation issued on the 6th day of December, 1992 by the President under article 356 of the Constitution, the powers of the Legislature of the State of Uttar Pradesh have been declared to be exercisable by or under the authority of Parliament;

AND WHEREAS the Uttar Pradesh Krishi Utpadan Mandi Samitis (Alpakalik Vyawastha) (Tritiya Sanshodhan) Adhyadesh, 1992 to provide for the aforesaid matters was promulgated by the Governor on the 29th November, 1992;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action:

...
Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Uttar Pradesh Krishi Utpadan Mandi Samitis (Alpakalik Vyavastha) Amendment Ordinance, 1993.

2. It shall come into force at once.

2. For section 2 of the Uttar Pradesh Krishi Utpadan Mandi Samitis (Alpakalik Vyavastha) Adhiniyam, 1972, the following section shall be substituted, namely:—

"2. (1) With effect from the date of commencement of the Uttar Pradesh Krishi Utpadan Mandi Samitis (Alpakalik Vyavastha) Amendment Ordinance, 1993, the provisions of the Uttar Pradesh Krishi Utpad Mandi Adhiniyam, 1964 (hereinafter referred to as the said Adhiniyam), shall, for a period of one year from the date of such commencement or until the constitution of an elected Mandi Samiti under section 13 of the said Adhiniyam, whichever is earlier, have effect in relation to every market area which existed on the date of such commencement or which is declared to be so during the said period, subject to the following provisions, namely:—

(a) notwithstanding anything contained in the said Adhiniyam, every ad-hoc Committee constituted under this Act (as it existed immediately before the date of such commencement) shall stand dissolved, and the Chairman and every other member of such Committee shall cease to hold their respective offices;

(b) all powers, functions and duties of the Committee, its Chairman and Vice-Chairman shall be vested in, and be exercised, performed and discharged by the District Magistrate of the district in which the Principal Market Yard is situate, and such District Magistrate shall be deemed in law to be the Committee, its Chairman or Vice-Chairman as the occasion may require;

(c) subject to any general or special order of the State Government such District Magistrate may, subject to such terms and conditions as he may think fit to impose, delegate all or any of the powers conferred on him by clause (b) to any officer specified by him in this behalf;

(d) the State Government may, from time to time, by notification in the Gazette, make such incidental or consequential provisions, including provisions for adapting, modifying or suspending, in whole or in part, the operation of any provisions of the said Adhiniyam, but not affecting the substance, as may appear to it to be necessary or desirable for any of the foregoing or connected purposes.
(2) Every notification issued under clause (d) of sub-section (1) of section 23A of the Uttar Pradesh General Clauses Act, 1904, shall apply as they apply in respect of rules made by the Government under any Uttar Pradesh Act.


(2) Notwithstanding such repeal, anything done or any action taken under the Uttar Pradesh Krishi Utpadan Mandi Samitis (Alpakanik Vyavastha) Adhiniyam, 1972, as amended by the Ordinance referred to in sub-section (1), shall be deemed to be valid and be deemed always to have been valid.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 16th January, 1993/Pausa 26, 1914 (Saka)

THE UTTAR PRADESH CO-OPERATIVE SOCIETIES (AMENDMENT) ORDINANCE, 1993

No. 12 of 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance further to amend the Uttar Pradesh Co-operative Societies Act, 1965.

WHEREAS by a Proclamation issued on the 6th day of December, 1992 by the President under article 356 of the Constitution, the powers of the Legislature of the State of Uttar Pradesh have been declared to be exercisable by or under the authority of Parliament:

AND WHEREAS the Uttar Pradesh Co-operative Societies (Amendment) Ordinance, 1991 and Uttar Pradesh Co-operative Societies (Amendment)-Ordinance, 1992 to provide for the aforesaid matters were promulgated by the Governor on 27th December, 1991 and 28th January, 1992, respectively;
AND WHEREAS the Uttar Pradesh Co-operative Societies (Amendment) Bill, 1992 was introduced in the Uttar Pradesh Legislative Council to replace the said Ordinance, but has not been passed;

AND WHEREAS the Uttar Pradesh Co-operative Societies (Third Amendment) Ordinance, 1992 was promulgated by the Governor on the 29th November, 1992 to replace the said Ordinances;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Uttar Pradesh Co-operative Societies (Amendment) Ordinance, 1993.

(2) Sections 2 and 4 shall be deemed to have come into force on December 27, 1991, section 3 shall be deemed to have come into force on January 28, 1992 and the remaining provisions shall come into force at once.

2. In section 29 of the Uttar Pradesh Co-operative Societies Act, 1965 (hereinafter referred to as the principal Act), in sub-section (6), in the first proviso, for the word and figures “December 31, 1991”, the word and figures “June 30, 1993” shall be substituted.

3. In section 34 of the principal Act,—

(a) in sub-section (1), the following proviso shall be inserted at the end, namely:—

Provided that where the share capital subscribed to by the State Government is not less than fifteen lakh rupees, the State Government shall also have the right to nominate the Chairman of the Committee of Management from amongst the members of the Committee;”;

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

“(1A) Notwithstanding anything contained in sub-section (1), the State Government shall have the right to nominate such number of members of the Committee of Management, including the Chairman, as exceeds, and is nearest to, one-half of the total number of members, if—

(a) the share of the State Government, in the shares capital of the society, exceeds fifty per cent, of the total share capital of the society; or

(b) the State Government has given loans or made advances to the society or guaranteed the repayment of principal and payment of interest on debentures issued by the
society, or guaranteed the repayment of principal and payment of interest on loans or advances to the society, in amounts exceeding fifty per cent. in the aggregate of the total amount so borrowed by the society.

(1B) Where the State Government exercises its right of nomination under this section, then—

(a) in the case of nomination of Chairman, any person for the time being holding that office shall cease to be Chairman on the date such nomination is made;

(b) in the case of nomination of members of the Committee of Management, lots shall be drawn by or under the authority of the Registrar on the date and at the time and place to be fixed by the Registrar in that behalf (of which notice shall be given to members of the Committee) for the retirement of as many members of the Committee as may be necessary to accommodate the nominees of the State Government, and the members whose names are drawn by lots shall on the date of such drawal cease to be members of the Committee;”;

(c) in sub-section (2), for the words “sub-section (1)”, the words “this section” shall be substituted.

4. In section 35 of the principal Act, in sub-section (6), in the proviso, for the word and figures “December 31, 1991”, the word and figures “June 30, 1993” shall be substituted.

5. (1) The Uttar Pradesh Co-operative Societies (Third Amendment) Ordinance, 1992 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the principal Act, as amended by the Ordinance referred to in sub-section (1), shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Ordinance as if the provisions of this Ordinance were in force at all material times.

SHANKER DAYAL SHARMA,

President.

K. L. MOHANPURIA,

Secy. to the Govt. of Indi.
The Gazette of India

EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 16th January, 1993/Pausa, 26, 1914 (Saka)

THE UTTAR PRADESH SUBORDINATE SERVICES SELECTION COMMISSION (AMENDMENT) ORDINANCE, 1993

No. 13 of 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance further to amend the Uttar Pradesh Subordinate Services Selection Commission Act, 1988.

Whereas by a Proclamation issued on the 6th day of December, 1992 by the President under article 356 of the Constitution, the powers of the Legislature of the State of Uttar Pradesh have been declared to be exercisable by or under the authority of Parliament;

And Whereas the Uttar Pradesh Subordinate Services Selection Commission (Amendment) Ordinance, 1991 to provide for the aforesaid matters was promulgated by the Governor on the 30th August, 1991;

And Whereas the Uttar Pradesh Subordinate Services Selection Commission (Amendment) Bill, 1992 was introduced in the Uttar Pradesh Legislative Council to replace the said Ordinance, but has not been passed;
AND WHEREAS the Uttar Pradesh Subordinate Services Selection Commission (Amendment) (Third) Ordinance, 1992 was promulgated by the Governor on the 29th November, 1992 to replace the said Ordinance;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Uttar Pradesh Subordinate Services Selection Commission (Amendment) Ordinance, 1993.

(2) Sections 2 to 4 shall be deemed to have come into force on August 30, 1991 and the remaining provisions shall come into force at once.

2. In section 6 of the Uttar Pradesh Subordinate Services Selection Commission Act, 1988 (hereinafter referred to as the principal Act), in sub-section (1), the following sub-section shall be substituted, namely:

“(2) The Commission shall consist of a Chairman and such other members not exceeding five as the State Government may from time to time appoint from amongst its officers and the officers of a corporation wholly owned or controlled by the State Government who have, for at least ten years, held a post or posts under the Central or State Government or such corporations not below the rank of Group ‘A’ posts of the State Government.”

3. Sections 8 and 9 of the principal Act shall be omitted.

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

“10. (1) The provisions of rule 56 of the Uttar Pradesh Fundamental Rules shall apply and continue to apply to every member of the Commission as they apply to any other Government servant of the same grade, rank or cadre.

(2) Notwithstanding anything contained in sub-section (1), a person who has retired on attaining the age of superannuation from Government service or the service of a corporation wholly owned or controlled by the State Government may be re-employed and appointed as a member, if he is otherwise eligible for such appointment under sub-section (1) of section 6 for such period as may be specified in the appointment order, so however, that he shall not hold the office beyond the date of his attaining the age of sixty-two years.

(3) Any person holding the office of a member on August 30, 1991 who has not exceeded the date of retirement provided in rule 56 of the Uttar Pradesh Fundamental Rules before August 30, 1991 shall be deemed to have been re-employed and appointed under sub-section (2).”
5. (1) The Uttar Pradesh Subordinate Services Selection Commission (Amendment) (Third) Ordinance, 1992 is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the provisions of the principal Act, as amended by the Ordinance referred to in sub-section (1), shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Ordinance, as if the provisions of this Ordinance were in force at all material times.

SHANKER DAYAL SHARMA,

President.

K. L. MOHANPURIA,

Secy. to the Govt. of India.
THE MOTOR VEHICLES (UTTAR PRADESH AMENDMENT) ORDINANCE, 1993

No. 14 of 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to amend the Motor Vehicles Act, 1988 in its application to Uttar Pradesh.

WHEREAS by a Proclamation issued on the 6th day of December, 1992 by the President under article 356 of the Constitution, the powers of the Legislature of the State of Uttar Pradesh have been declared to be exercisable by or under the authority of Parliament;

AND WHEREAS the Motor Vehicles (Uttar Pradesh Amendment) Ordinance, 1992 to provide for the aforesaid matters was promulgated by the Governor on the 2nd December, 1992;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;
NOW, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Motor Vehicles (Uttar Pradesh Amendment) Ordinance, 1993.

(2) It extends to the whole of Uttar Pradesh.

(3) Section 2 shall be deemed to have come into force on December 2, 1992 and the remaining provisions shall come into force at once.

2. In section 103 of the Motor Vehicles Act, 1988 (hereinafter referred to as the principal Act), after sub-section (1), the following sub-section shall be inserted, namely:

"(1A) It shall be lawful for a State transport undertaking to operate on any route as stage carriage, under any permit issued therefor to such undertaking under sub-section (1), any vehicle placed at the disposal and under the control of such undertaking by the owner of such vehicle under any arrangement entered into between such owner and the undertaking for the use of the said vehicle by the undertaking."

3. (1) The Motor Vehicles (Uttar Pradesh Amendment) Ordinance, 1992 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the principal Act, as amended by the Ordinance referred to in sub-section (1), shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Ordinance, as if the provisions of this Ordinance were in force at all material times.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
E X T R A O R D I N A R Y

P A R T II—Section 1

PUBLISHED BY AUTHORITY

THE HIMACHAL PRADESH ELECTRICITY (DUTY) AMENDMENT ORDINANCE, 1993

No. 15 of 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance further to amend the Himachal Pradesh Electricity (Duty) Act, 1975.

Whereas by a Proclamation issued on the 15th day of December, 1992—by the President under article 356 of the Constitution, the powers of the Legislature of the State of Himachal Pradesh have been declared to be exercisable by or under the authority of Parliament;

And Whereas the Himachal Pradesh Electricity (Duty) (Second Amendment) Ordinance, 1992 to provide for the aforesaid matters was promulgated by the Governor on the 3rd August, 1992;

And Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Himachal Pradesh Electricity (Duty) Amendment Ordinance, 1993.

(2) It shall come into force at once.
2. For sub-section (1) of section 3 of the Himachal Pradesh Electricity (Duty) Act, 1975 (hereinafter referred to as the principal Act), the following sub-section shall be substituted, namely:—

"(1) There shall be levied and paid to the State Government on the energy consumed a duty to be called the "Electricity Duty" in the prescribed manner and computed at the following rates:—

(i) in case of domestic consumers at the rate of 5 paisa per unit; and

(ii) in case of other category of consumers at the rate of 10 paisa per unit:

Provided that if the energy is partly used for category (i) and partly for category (ii) above, the highest rate of duty applicable will be levied."

3. After section 11 of the principal Act, the following section shall be inserted, namely:—

"11A. The State Government may in public interest by notification exempt any consumer or person from the payment of the whole or part of the Electricity Duty for such period and subject to such terms and conditions as may be specified in such notification."

4. (1) The Himachal Pradesh Electricity (Duty) (Second Amendment) Ordinance, 1992 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the Ordinance referred to in sub-section (1) shall be deemed to have been done or taken as the case may be, under the principal Act as amended by this Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Government of India.
PROMULGATED BY AUTHORITY

THE HIMALACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND LODGING HOUSES) AMENDMENT ORDINANCE, 1993

No. 16 of 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance further to amend the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979.

WHEREAS by a Proclamation issued on the 15th day of December, 1992 by the President under article 356 of the Constitution, the powers of the Legislature of the State of Himachal Pradesh have been declared to be exercisable by or under the authority of Parliament;

AND WHEREAS the Himachal Pradesh Tax on Luxuries (In Hotels and Lodging Houses) Amendment Ordinance, 1992 further to amend the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 was promulgated on 21st October, 1992;

AND WHEREAS Parliament is not in session, and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Ordinance, 1993.

(2) It shall be deemed to have come into force on the 1st day of July, 1992.
2. In section 2 of the Himachal Pradesh Tax on Luxuries (in Hotels and lodging Houses) Act, 1979 (hereinafter referred to as the principal Act), in clauses (d) and (e), the following clauses shall be substituted, namely:

“(d) “hotel” means any premises or part of premises including a house-boat, restaurant, bar of a tent where lodging with or without board or any kind of eatables or beverages or other services are by way of business provided for a monetary consideration, and includes such premises as are given on rent during any period of a financial year;

(e) “luxury provided in a hotel” means accommodation for residence provided in a hotel, rate of charges for which (including charges for air conditioning, telephone, television, radio, music, sports, extra beds and other amenities provided in a hotel) is twenty-five rupees per person per day or more”.

3. In section 4 of the principal Act,—

(i) in sub-section (f),—

(a) for the words “the entire period of a financial year”, the words “such period of financial year as may be specified by notification issued under this sub-section” shall be substituted;

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

Provided that the period of a financial year to be notified under this sub-section shall not be less than fifty per cent of the number of days in that financial year.”;

(ii) after sub-section (5), the following sub-section shall be inserted, namely:

“(5A) During the period commencing from the 1st day of July, 1992 and ending on the day the notification revising the rate of luxury tax under sub-section (5) is published in the Official Gazette issued after the promulgation of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Ordinance, 1992 the luxury tax for the purposes of sub-section (d) shall be and shall always be deemed to have been levied at the rate of ten paise in a rupee.”;

(iii) in sub-section (6), for the words “the foregoing sub-sections”, the words, brackets and figure “sub-section (2)” shall be substituted.

4. In section 17 of the principal Act, in sub-section (3) after the proviso the following proviso shall be inserted, namely:

“Provided further that the State Government may, for the purposes of sub-section (f) of section 4 make rules with retrospective effect, but not earlier than the 1st day of July, 1992.”.
5. (1) The Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Ordinance, 1992 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the Ordinance referred to in sub-section (1), shall be deemed to have been done or taken, under the corresponding provisions of the principal Act, as amended by this Ordinance, as if the provisions of this Ordinance were in force at all material times.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 25th January, 1993 / Magha 5, 1914 (Saka)

THE MADHYA PRADESH LOTTERY PRATIBANDH
ORDINANCE, 1993

No. 17 OF 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to ban all lotteries in the State of Madhya Pradesh.

WHEREAS by a proclamation issued on the 15th day of December, 1992 by the President under article 356 of the Constitution, the powers of the Legislature of the State of Madhya Pradesh have been declared to be exercisable by or under the authority of Parliament;

AND WHEREAS the Madhya Pradesh Lottery Pratibandh Adhyanadesh, 1992 to provide for the aforesaid matters was promulgated by the Governor on the 18th November, 1992;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Madhya Pradesh Lottery Pratibandh Ordinance, 1993.

(2) It shall come into force at once.
2. In this Ordinance, unless the context otherwise requires,—

(a) "agent" means and includes Main Stockist or, by whatever name called, who may be an individual or a group of persons or a company registered under the Companies Act, 1956 or a partnership firm entrusted with the responsibility of sale of State Lottery tickets on an agency basis on behalf of the State Government;

(b) "lottery" means a scheme for distribution of prizes by lot or chance to those persons participating in the chances of a prize by purchasing tickets;

(c) "promoters", in relation to a lottery, includes an organiser or any person having control on the conduct of a lottery;

(d) "tickets" includes, in relation to any lottery or proposed lottery, any document evidencing the claim of a person to participate in the chances of the lottery.

3. Notwithstanding any agreement or contract entered into by the State Government with any person, no person shall be permitted to deal with in the trade or business of lottery or be an agent or promoter in respect of any lottery, nor shall he sell, distribute or purchase any lottery ticket within the territory of Madhya Pradesh.

4. If any person acts as an agent or a promoter or a trader in lottery or sells, distributes or purchases the lottery tickets, he shall be punishable with rigorous imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees, or with both.

5. If any person with a view to the promotion or conduct of any lottery—

(a) prints or publishes any ticket, coupon or other document for use in the lottery; or

(b) sells or distributes or offers or advertises for sale or distribution or has in his possession for the purpose of sale or distribution any ticket, coupon or other document for use in the lottery; or

(c) prints, publishes or distributes or has in his possession for the purpose of publication or distribution—

(i) any advertisement of the lottery; or

(ii) any list (whether complete or not) of prize winners in the lottery; or

(iii) any such matter descriptive of, or otherwise relating to the lottery as is calculated to act as an inducement to persons to participate in that lottery;

(d) brings, or invites any person to send, into the territories of Madhya Pradesh for the purpose of sale or distribution, any ticket, coupon or other document for use in, or any advertisement of lottery; or

(e) sends or attempts to send, out of Madhya Pradesh any money or valuable thing received in respect of the sale or distribution of any ticket, coupon or other document for use in the lottery; or
(f) uses any premises, or causes or knowingly permits, any premises to be used for purposes connected with the promotion or conduct of the lottery; or

(g) causes or procures or attempts to procure any person to do any of the above mentioned acts,

he shall be punishable with rigorous imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees, or with both.

6. (1) If the person committing an offence under this Ordinance is a company, the company as well as every person who was in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the Commission of the offence is attributable to any neglect on the part of any Director, Manager, Secretary or other Officer of the Company, such Director, Manager, Secretary or other Officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this Section—

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "Director" in relation to a firm, means a partner in the firm.

7. (1) It shall be lawful for any police officer not below the rank of a Sub-Inspector authorised by the State Government in this behalf by general or special order in writing—

(a) to enter, if necessary by force, whether by day or night, with such assistants as he considers necessary, any premises which he has reason to suspect are being used for purposes connected with the promotion or conduct of any lottery in contravention of the provisions of this Ordinance;

(b) to search the premises and the person whom he may find therein;

(c) to take into custody and produce before a Magistrate all such persons whom he has reason to believe to be guilty of an offence punishable under this Ordinance or against whom a reasonable complaint has been made, or credible information has been received or a reasonable suspicion exists of their having been concerned with the use of such premises for purposes connected with or with the promotion or conduct of any lottery in contravention of the provisions of this Ordinance; and
(d) to seize all things found therein which are intended to be used or reasonably suspected to have been used in connection with such lottery.

(2) All searches under this section shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973.

8. The offence under this Ordinance shall be cognizable and non-bailable.


(2) Notwithstanding such repeal, anything done or any action taken under the Madhya Pradesh Lottery Pratibandh Adhyanesh, 1992 shall be deemed to be valid and be deemed always to have been valid.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 25th January, 1993/Magha 5, 1914 (Saka)

THE MADHYA PRADESH ADHYAKSHA TATHA UPADHYAKSHA TATHA NETA PRATIPAKSHA (VETAN TATHA BHATTA) LAWS (AMENDMENT) ORDINANCE, 1993

No. 18 OF 1993

Promulgated by the President in the Forty-third Year of the Republic of India.


WHEREAS by a proclamation issued on the 15th day of December, 1992 by the President under article 356 of the Constitution, the powers of the Legislature of the State of Madhya Pradesh have been declared to be exercisable by or under the authority of Parliament;

AND WHEREAS the Madhya Pradesh Adhyaksha Tatha Upadhyaksha Tatha Neta Pratipaksha (Vetan Tatha Bhatta) Vidhi Sanshodhan Adhyadesh, 1992 to provide for the aforesaid matters was promulgated by the Governor on the 28th October, 1992;
AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Madhya Pradesh Adhyaksha Tatha Upadhyaksha Tatha Neta Pratipaksha (Vetan Tatha Bhatta) Laws (Amendment) Ordinance, 1983.

(2) It shall come into force at once.

2. During the period of operation of this Ordinance, the Madhya Pradesh Adhyaksha Tatha Upadhyaksha (Vetan Tatha Bhatta) Adhiniyam, 1972 (No. 27 of 1972) and the Madhya Pradesh Vidhan Mandal Neta Pratipaksha (Vetan Tatha Bhatta) Adhiniyam, 1980 (No. 8 of 1980) shall have effect subject to the amendments specified in sections 3 and 4.

PART I

AMENDMENT TO THE MADHYA PRADESH ADHYAKSHA TATHA
UPADHYAKSHA (VETAN TATHA BHATTA) ADHINITYAM, 1972

(No. 27 of 1972)

3. For section 3 of the Madhya Pradesh Adhyaksha Tatha Upadhyaksha (Vetan Tatha Bhatta) Adhiniyam, 1972, the following section shall be substituted, namely:

"3. (1) There shall be paid to the Speaker a sumptuary allowance of one thousand five hundred rupees per mensem and to the Deputy Speaker a sumptuary allowance of seven hundred and fifty rupees per mensem.

(2) There shall be paid to the Speaker and the Deputy Speaker a constituency allowance of three thousand rupees per mensem.

(3) There shall be paid to the Speaker and the Deputy Speaker a daily allowance of one hundred fifty rupees per day."
PART II

AMENDMENT TO THE MADHYA PRADESH VIDHAN MANDAL NETA PRATIPAKSHA (VETAN TATHA BHATTA) ADHINITYAM, 1980

(No. 8 of 1989)

4. For section 4 of the Madhya Pradesh Vidhan Mandal Neta Pratipaksha (Vetan Tatha Bhatta) Adhiniyam, 1980, the following section shall be substituted, namely:—

"4. (1) There shall be paid to the Neta Pratipaksha a sumptuary allowance of one thousand five hundred rupees per mensum.

(2) There shall be paid to the Neta Pratipaksha a constituency allowance of three thousand rupees per mensum.

(3) There shall be paid to the Neta Pratipaksha a daily allowance of one hundred fifty rupees per day."

5. (1) The Madhya Pradesh Adhyaksha Tatha Upadhyaksha Tatha Neta Pratipaksha (Vetan Tatha Bhatta) Vidhi Sanshodhan Adhyadesh, 1992 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Madhya Pradesh Adhyaksha Tatha Upadhyaksha (Vetan Tatha Bhatta) Adhiniyam, 1972 or the Madhya Pradesh Vidhan Mandal Neta Pratipaksha (Vetan Tatha Bhatta) Adhiniyam, 1980, as amended by the Adhyadesh referred to in sub-section (1), shall be deemed to be valid and be deemed always to have been valid.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
THE OILFIELDS (REGULATION AND DEVELOPMENT) AMENDMENT ORDINANCE, 1993

No. 19 of 1993

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance further to amend the Oilfields (Regulation and Development) Act, 1948.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Oilfields (Regulation and Development) Amendment Ordinance, 1993.

(2) It shall come into force at once.

2. In section 6A of the Oilfields (Regulation and Development) Act, 1948, after sub-section (4) the following sub-section shall be inserted, namely:—

"(5) Notwithstanding anything contained in sub-section (4), the Central Government may, by notification in the Official Gazette,
amend the Schedule so as to enhance the rate of royalty payable in respect of crude oil, produced during the period beginning on the 1st day of April, 1980 and ending on the 31st day of March, 1993, to 24.32 per cent of the sale price of crude oil at the oilfields or the oil well-head, as the case may be."

SHANKER DAYAL SHARMA,
President.

K. L. MOHANDURIA,
Secy. to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 30th January, 1993/Magha 10, 1914 (Saka)

THE MADHYA PRADESH MOTORYAN KARADHAN (AMENDMENT) ORDINANCE, 1993

No. 20 of 1993

Promulgated by the President in the Forty-fourth Year of the
Republic of India.

An Ordinance further to amend the Madhya Pradesh Motoryan

WHEREAS by a proclamation issued on the 15th day of December, 1992
by the President under article 356 of the Constitution, the powers of the Legis-
lature of the State of Madhya Pradesh have been declared to be exercisable by
or under the authority of Parliament;

AND WHEREAS the Madhya Pradesh Motoryan Karadhan (Sanshodhan)
Adhyadesh, 1992, to provide for the aforesaid matters was promulgated by the
Governor on the 10th October, 1992;

AND WHEREAS the Madhya Pradesh Motoryan Karadhan (Sanshodhan)
Adhyadesh, 1992 has ceased to operate;

AND WHEREAS it is necessary to provide for continuity of the provisions
made under the aforesaid Adhyadesh;

AND WHEREAS Parliament is not in session and the President is satisfied
that circumstances exist which render it necessary for him to take immediate
action,
NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Madhya Pradesh Motoryan Karadhan (Amendment) Ordinance, 1993.

(2) It shall be deemed to have come into force on the 10th day of October, 1992.

2. During the period of operation of this Ordinance, the Madhya Pradesh Motoryan Karadhan Adhiniyam, 1991 (No. 25 of 1991) (hereinafter referred to as the Principal Act), shall have effect subject to the amendments specified in sections 3 to 8.

3. For section 8 of the Principal Act, the following Section shall be substituted, namely:—

8. (1) Every owner, who is liable to pay the tax under this Act, shall file a declaration with the Taxation Authority together with the proof of the payment of the tax which he appears to be liable to pay in respect of such vehicle in such form and within such time as may be prescribed.

(2) When any motor vehicle in respect of which tax has been paid is altered in such a manner as to cause the vehicle to become a motor vehicle in respect of which a higher rate of tax is payable, the owner of such vehicle shall file an additional declaration with the Taxation Authority together with the certificate of registration and the proof of the payment of difference of tax which he appears to be liable to pay in respect of such vehicle, in such form and within such time as may be prescribed.

(3) On receipt of the declaration under sub-section (1) or the additional declaration under sub-section (2) as the case may be, the Taxation Authority shall, after making such enquiry as it deems fit and after giving to the owner an opportunity of being heard, determine, by an order in writing, the tax payable by the owner and intimate the same to him in such form and within such time as may be prescribed.

(4) Where the owner fails to file a declaration required under sub-section (1) or (2), the Taxation Authority may, on the basis of information available with it and after giving to the owner an opportunity of being heard, by an order in writing, determine the amount of tax payable by such owner and intimate the same to him in such form and within such time as may be prescribed.

(5) On determination of the tax payable under sub-section (3) or (4), as the case may be, by the Taxation Authority, the difference of the amount of tax payable and the amount of tax paid shall, as the case may be, be paid by or refunded to the owner in a manner applicable to the payment or refund of tax under this Act and rules.

(6) Where the owner files a false declaration, the Taxation Authority shall, after giving the owner an opportunity of being heard, by an order
in writing, impose a penalty not exceeding twice the amount of tax determined under sub-section (3).

Explanation.—"Alteration in a motor vehicle" includes an acquisition, surrender or non-use of or any change in a permit by which the vehicle is covered."

4. In sub-section (1) of section 13 of the Principal Act, for the words "quarterly tax" occurring twice, the words "the unpaid amount of tax" shall respectively be substituted.

5. In clause (i) of sub-section (1) of section 14 of the Principal Act, for the words "quarter, half year or year" occurring twice, the words "month, quarter, half year or year" shall respectively be substituted.

6. After sub-section (3) of section 16 of the Principal Act, the following sub-section shall be inserted, namely:

"(4) Where a motor vehicle has been seized and detained under sub-section (3), the owner or the person in charge of such vehicle may apply to the Taxation Authority or any officer authorised in this behalf by the State Government together with the relevant documents for the release of the vehicle and if such authority or officer, after verification of such documents, is satisfied that no amount of tax is due in respect of that vehicle, may by an order in writing release such vehicle."

7. For clause (a) of sub-section (2) of section 24 of the Principal Act, the following clause shall be substituted, namely:

"(a) the form of declaration and the time within which declaration shall be filed under sub-section (1) or (2) of section 8 and the form in which and the time within which the intimation of determination of tax shall be given under sub-section (3) or (4), of section 8;"

8. In item IV of the First Schedule to the Principal Act,—

(i) in Explanation (7), the words brackets and letter "clause (m) or" shall be omitted;

(ii) after Explanation (8), the following Explanation shall be added, namely:

"Explanation (9).—The tax payable by the holder of service of stage carriages permit in respect of buses authorised to ply on such permit shall be calculated on the basis of average seating capacity of such buses."

(i) under sub-item (d) of such number of buses as is required for plying on any day to maintain service on all the routes covered by the permits held, and

(ii) after Explanation (f), the following Explanation shall be added, buses."
initiated by the Taxation Authority) or purported to have been taken or
done under sections 8, 13, 14, 15 and 24 of, and the First Schedule to,
the Principal Act as amended by this Ordinance shall be deemed to be,
and to have always been, as valid and effective as if the said sections and
Schedule as so amended had been in force when such thing was done or
such action was taken.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy, to the Govt. of India.
EXTRAORDINARY
PART II—Section 1
PUBLISHED BY AUTHORITY

NEW DELHI, SATURDAY, JANUARY 30, 1993/MAGHA 10, 1914

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 30th January, 1993/Magha 10, 1914 (Soka)

THE DELHI MUNICIPAL CORPORATION (AMENDMENT) ORDINANCE, 1993

No. 21 of 1993

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance further to amend the Delhi Municipal Corporation) Act, 1957.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Delhi Municipal Corporation (Amendment) Ordinance, 1993.

(2) It shall come into force at once.
2. In the Delhi Municipal Corporation Act, 1957 (hereinafter referred to as the principal Act) the heading "Terminal Taxes on Goods" before section 178 and sections 178 to 183 (both inclusive) shall be omitted.

3. Sections 463 and 464 of the principal Act shall be omitted.

4. Tenth Schedule to the principal Act shall be omitted.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
THE GOLD BONDS (IMMUNITIES AND EXEMPTIONS) ORDINANCE, 1993

No. 22 OF 1993

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance to provide for certain immunities to the subscribers of the Gold Bonds and for certain exemptions from direct taxes in relation to such Bonds and for matters connected therewith or incidental thereto.

Whereas it is expedient to provide for certain immunities of residents in India, it is expedient to provide for certain immunities to render it possible for such residents to subscribe to Gold Bonds;

And whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Gold Bonds (Immunities and Exemptions) Ordinance, 1993.

(2) It shall come into force at once.
2. In this Ordinance, unless the context otherwise requires,—

(a) "Gold Bonds" means the Gold Bonds, 1998, issued by the Central Government in accordance with the scheme framed by that Government under section 3;

(b) "subscriber" means an individual, a Hindu undivided family, trustees of a trust, a firm or a company, being a resident or residents in India, who has or have initially subscribed to the Gold Bonds.

Explanation.—For the purposes of this clause, the expression "individual" shall also include,—

(i) his legal heirs; or

(ii) where a partition has taken place among the members of the Hindu undivided family, every member of such family having a share in the Gold Bonds;

(c) all other words and expressions used in this Ordinance but not defined and defined in the Income-tax Act, 1961 shall have the meanings respectively assigned to them in that Act.

3. (1) The Central Government may, by notification in the Official Gazette, frame a scheme for subscription to the Gold Bonds, 1998, on or after the date of commencement of this Ordinance, but before the specified date.

Explanation.—For the purposes of this sub-section "specified date means the 31st day of March, 1993 or such other later date as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(2) The Central Government shall cause the scheme notified under sub-section (1) to be laid, as soon as may be after it is notified, before each House of Parliament.


(a) the acquisition of the gold bonds, including the source of money with which it was acquired;

(b) no inquiry or investigation shall be commenced against any subscriber under any of the said Acts on the ground that such subscriber owns the Gold Bonds; and

(c) the fact that any subscriber owns the Gold Bonds shall not be taken into account for the purposes of, and shall be inadmissible as evidence in, any proceedings under any of the said Acts:

Provided that nothing contained in this sub-section shall apply where any proceedings in respect of the gold subscribed by the subscriber have already been initiated before the commencement of this Ordinance in accordance with the provisions of any of the aforesaid Acts.
(2) Nothing in sub-section (1) shall apply in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Terrorist and Disruptive Activities (Prevention) Act, 1987, the Prevention of Corruption Act, 1988 or for the purposes of enforcement of any civil liability.

5. Without prejudice to the generality of the provisions of section 4.—

(a) the provisions of the Income-tax Act, 1961 shall not apply to—

(i) any interest accruing to the subscriber from the Gold Bonds;

(ii) any long-term capital gains arising to the subscriber;

(b) the provisions of the Gift-tax Act, 1958 shall not apply where the gift of the Gold Bonds is made by a subscriber, being an individual, to his spouse, child or parent.

SHANKER DAYAL SHARMA.
President

K. L. MOHANPURIA.
Secy. to the Govt. of India.
THE NATIONAL COMMISSION FOR BACKWARD CLASSES ORDINANCE, 1993

No. 23 of 1993

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance to constitute a National Commission for Backward Classes other than the Scheduled Castes and the Scheduled Tribes and to provide for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER 1

PRELIMINARY

1. (1) This Ordinance may be called the National Commission for Backward Classes Ordinance, 1993.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.
2. In this Ordinance, unless the context otherwise requires,—

(a) "backward classes", for the purpose of this Ordinance, means such backward classes of citizens other than the Scheduled Castes and the Scheduled Tribes as may be specified by the Central Government in the lists;

(b) "Commission" means the National Commission for Backward Classes constituted under section 3;

(c) "lists" means lists prepared by the Government of India from time to time for purposes of making provision for the reservation of appointments or posts in favour of backward classes of citizens which, in the opinion of that Government, are not adequately represented in the services under the Government of India and any local or other authority within the territory of India or under the control of the Government of India;

(d) "Member" means a Member of the Commission and includes the Chairperson;

(e) "prescribed" means prescribed by rules made under this Ordinance.

CHAPTER II

THE NATIONAL COMMISSION FOR BACKWARD CLASSES

3. (1) The Central Government shall constitute a body to be known as the National Commission for Backward Classes to exercise the powers conferred on, and to perform the functions assigned to, it under this Ordinance.

(2) The Commission shall consist of the following Members nominated by the Central Government:—

(a) a Chairperson, who is or has been a Judge of the Supreme Court or of a High Court;

(b) a social scientist;

(c) two persons, who have special knowledge in matters relating to backward classes; and

(d) a Member-Secretary, who is or has been an officer of the Central Government in the rank of a Secretary to the Government of India.

4. (1) Every Member shall hold office for a term of three years from the date he assumes office.

(2) A Member may, by writing under his hand addressed to the Central Government, resign from the office of Chairperson or, as the case may be, of Member at any time.

(3) The Central Government shall remove a person from the office of Member if that person—

(a) becomes an undischarged insolvent;

(b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude.
(c) becomes of unsound mind and stands so declared by a competent court;

(d) refuses to act or becomes incapable of acting;

(e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or

(f) has, in the opinion of the Central Government, so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the interests of backward classes or the public interest:

Provided that no person shall be removed under this clause until that person has been given an opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed.

5. (1) The Central Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

6. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in sub-section (1) of section 12.

7. No act or proceeding of the Commission shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

8. (1) The Commission shall meet as and when necessary at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Member Secretary or any other officer of the Commission duly authorised by the Member Secretary in this behalf.
CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

9. (1) The Commission shall examine requests for inclusion of any class of citizens as a backward class in the lists and hear complaints of over-inclusion or under-inclusion of any backward class in such lists and tender such advice to the Central Government as it deems appropriate.

(2) The advice of the Commission shall ordinarily be binding upon the Central Government.

10. The Commission shall, while performing its functions under sub-section (1) of section 9, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents; and

(f) any other matter which may be prescribed.

11. (1) The Central Government may at any time, and shall, at the expiration of ten years from the coming into force of this Ordinance and every succeeding period of ten years thereafter, undertake revision of the lists with a view to excluding from such lists those classes who have ceased to be backward classes or for including in such lists new backward classes.

(2) The Central Government shall, while undertaking any revision referred to in sub-section (1), consult the Commission.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

12. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Ordinance.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Ordinance, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

13. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and
15. The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

16. The Central Government shall cause the annual report, together with a memorandum of action taken on the advice tendered by the Commission under section 9 and the reasons for the non-acceptance, if any, of that advice, and the audit report to be laid as soon as may be after they are received before each House of Parliament.

CHAPTER V
MISCELLANEOUS

17. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:

(a) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (5) of section 4 and of officers and other employees under sub-section (2) of section 5;

(b) the form in which the annual statement of accounts shall be maintained under sub-section (1) of section 13;

(c) the form in which, and the time at which, the annual report shall be prepared under section 14;

(d) any other matter which is required to be, or may be prescribed.
(3) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

18. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette, make provisions, not inconsistent with the provisions of this Ordinance as appear to it to be necessary or expedient, for removing the difficulty.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

SHANKER DAVYAL SHARMA,
President.

K. L. MOHANPURIA.
Secy. to the Govt. of India.

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EXTRAORDINARY

PART II—Section 1

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MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 18th June, 1993/Jyaistha 28, 1915 (Saka)

THE CONSUMER PROTECTION (AMENDMENT) ORDINANCE, 1993

No. 24 of 1993

Promulgated by the President in the Forty-fourth Year of the Republic of India

An Ordinance further to amend the Consumer Protection Act, 1986.

WHEREAS a Bill further to amend the Consumer Protection Act, 1986, has been introduced in Parliament but has not yet been passed.

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the Bill;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Consumer Protection (Amendment) Ordinance, 1993.

(2) It shall come into force at once.

2. In section 2 of the Consumer Protection Act, 1986 (hereinafter referred to as the principal Act), in sub-section (1),—

Short title and commencement.

Amendment of section 2.
(1) for clause (a), the following clause shall be substituted, namely:

(a) "appropriate laboratory" means a laboratory or organisation—

(i) recognised by the Central Government.

(ii) recognised by a State Government, subject to such guidelines as may be prescribed by the Central Government in this behalf; or

(iii) any such laboratory or organisation established by or under any law for the time being in force, which is maintained, financed or aided by the Central Government or a State Government for carrying out analysis or test of any goods with a view to determining whether such goods suffer from any defect;

(2) after clause (a), the following clause shall be inserted, namely:

"(as) "branch office" means—

(i) any establishment described as a branch by the opposite party; or

(ii) any establishment carrying on either the same or substantially the same activity as that carried on by the head office of the establishment;"

(3) in clause (b), after sub-clause (iii), the following sub-clause shall be inserted, namely:

"(iv) one or more consumers, where there are numerous consumers having the same interest;"

(4) in clause (c),

(A) for sub-clause (i), the following sub-clause shall be substituted, namely:

"(i) an unfair trade practice or a restrictive trade practice has been adopted by any trader;"

(B) in sub-clause (ii), for the words "the goods mentioned in the complaint", the words "the goods bought by him or agreed to be bought by him" shall be substituted;

(C) in sub-clause (iii), for the words "the services mentioned in the complaint", the words "the services hired or availed of or agreed to be hired or availed of by him" shall be substituted;

(D) after sub-clause (iv), the following sub-clause shall be inserted, namely:

"(v) goods which will be hazardous to life and safety when used, are being offered for sale to the public in contravention of the provisions of any law for the time being in force requiring traders to display information in regard to the contents, manner and effect of use of such goods."
(5) in clause (3).—

(A) in sub-clause (ii), for the word “hires”, in both the places where it occurs, the words “hires or avails of” shall be substituted;

(B) after sub-clause (ii), the following Explanation shall be inserted at the end, namely:—

‘Explanation.—For the purposes of sub-clause (i), “commercial purpose” does not include use by a consumer of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment;”;

(6) in clause (g), after the words “for the time being in force or”, the words “under any contract, express or implied, or” shall be inserted;

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

“(jj) “member” includes the President and a member of the National Commission or a State Commission or a District Forum, as the case may be;”;

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

“(na) “restrictive trade practice” means any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as a condition precedent for buying, hiring or availing of other goods or services;”;

(9) in clause (s), after the words “board or lodging or both,”, the words “housing construction,” shall be inserted;

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

“(r) “unfair trade practice” means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice including any of the following practices, namely:—

(I) the practice of making any statement, whether orally or in writing or by visible representation which,—

(i) falsely represents that the goods are of a particular standard, quality, quantity, grade, composition, style or model;

(ii) falsely represents that the services are of a particular standard, quality or grade;

(iii) falsely represents any re-built, second-hand, reconditioned or old goods as new goods;

(iv) represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have;
(vi) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have;

(vii) makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services;

(viii) gives to the public any warranty or guarantee of the performance, efficacy or length of life of a product or of any goods that is not based on an adequate or proper test thereof;

Provided that where a defence is raised to the effect that such warranty or guarantee is based on adequate or proper test, the burden of proof of such defence shall lie on the person raising such defence;

(viii) makes to the public a representation in a form that purports to be—

(i) a warranty or guarantee of a product or of any goods or services; or

(ii) a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result, if such purported warranty or guarantee or promise is materially misleading or if there is no reasonable prospect that such warranty, guarantee or promise will be carried out;

(ix) materially misleads the public concerning the price at which a product or like products or goods or services, have been or are, ordinarily sold or provided, and, for this purpose, a representation as to price shall be deemed to refer to the price at which the product or goods or services has or have been sold by sellers or provided by suppliers generally in the relevant market unless it is clearly specified to be the price at which the product has been sold or services have been provided by the person by whom or on whose behalf the representation is made;

(x) gives false or misleading facts disparaging the goods, services or trade of another person.

Explanation.—For the purposes of clause (1), a statement that is—

(a) expressed on an article offered or displayed for sale, or on its wrapper or container; or

(b) expressed on anything attached to, inserted in, or accompanying an article offered or displayed for sale, or on anything on which the article is mounted for display or sale; or
(c) contained in or on anything that is sold, sent, delivered, transmitted or in any other manner whatsoever made available to a member of the public, shall be deemed to be a statement made to the public by, and only by, the person who had caused the statement to be so expressed, made or contained;

(2) permits the publication, of any advertisement whether in any newspaper or otherwise, for the sale or supply at a bargain price, of goods or services that are not intended to be offered for sale or supply at the bargain price or for a period that is, and in quantities that are, reasonable, having regard to the nature of the market in which the business is carried on, the nature and size of business, and the nature of the advertisement.

Explanation.—For the purposes of clause (2), “bargaining price” means—

(a) a price that is stated in any advertisement to be a bargain price, by reference to an ordinary price or otherwise, or

(b) a price that a person who reads, hears or sees the advertisement, would reasonably understand to be a bargain price having regard to the prices at which the product advertised or like products are ordinarily sold;

(3) permits—

(a) the offering of gifts, prizes or other items with the intention of not providing them as offered or creating impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged in the transaction as a whole;

(b) the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest;

(4) permits the sale or supply of goods intended to be used, or are of a kind likely to be used, by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by competent authority relating to performance, composition, contents, design, constructions, finishing or packaging as are necessary to prevent or reduce the risk of injury to the person using the goods;

(5) permits the hoarding or destruction of goods, or refuses to sell the goods or to make them available for sale or to provide any service, if such hoarding or destruction or refusal raises or tends to raise or is intended to raise, the cost of those or other similar goods or services.

3. In section 4 of the principal Act, in sub-section (2), in clause (a), for the words “the Department of Food and Civil Supplies”, the words “consumer affairs” shall be substituted.
4. In section 5 of the principal Act, in sub-section (1), for the words "not less than three meetings", the words "at least one meeting" shall be substituted;

5. In section 6 of the principal Act,—

(i) in clause (a), after the word "goods", the words "and services" shall be inserted;

(ii) in clause (b), after the word "goods", the words "or services, as the case may be," shall be inserted;

(iii) in clause (c), after the word "goods", the words "and services" shall be inserted;

(iv) in clause (e) after the words "unfair trade practices", the words "or restrictive trade practices" shall be inserted.

6. In section 7 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) the State Council shall consist of the following members, namely:—"

(a) the Minister in charge of consumer affairs in the State Government who shall be its Chairman;

(b) such number of other official or non-official members representing such interests as may be prescribed by the State Government.

(3) The State Council shall meet as and when necessary but not less than two meetings shall be held every year.

(4) The State Council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transacting of its business as may be prescribed by the State Government.

7. In section 9 of the principal Act,—

(i) in clause (a),—

(i) the words "with the prior approval of the Central Government" shall be omitted;

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

"Provided that the State Government may, if it deems fit, establish more than one District Forum in a district;"

(ii) in clause (b), the words "with the prior approval of the Central Government" shall be omitted.

8. In section 10 of the principal Act,—

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

"(1) Each District Forum shall consist of:

(a) a person who is, or who has been, or is qualified to be, a District Judge, who shall be its President;
(2) two other members shall be persons of ability, integrity and standing, and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman.

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

"(IA Every appointment under sub-section (1) shall be made by the State Government on the recommendation of a selection committee consisting of the following, namely:—

(i) the President of the State Commission—Chairman,

(ii) Secretary, Law Department of the State—Member,

(iii) Secretary incharge of the Department dealing with dealing with consumer affairs in the State—Member.

9. In section 11 of the principal Act,—

(1) in sub-section (1), for the words "is less than rupees one lakh", the words "does not exceed rupees five lakhs" shall be substituted;

(2) in sub-section (2),—

(i) in clause (a), for the words "carries on business or", the words "carries on business or has a branch office or" shall be substituted;

(ii) in clause (b),—

(A) for the words "carries on business", the words "carries on business or has a branch office" shall be substituted;

(B) for the words "carry on business", the words "carry on business or have a branch office" shall be substituted.

10. For section 12 of the principal Act, the following section shall be substituted namely:

A complaint in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum, by—

(a) the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided;

(b) any recognised consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not.
(c) one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of, all consumers so interested; or

(d) the Central or the State Government.

Explanation.—For the purposes of this section, "recognised consumer association" means any voluntary consumer association registered under the Companies Act, 1956 or any other law for the time being in force.¹

11. In section 13 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:

"(6) Where the complainant is a consumer referred to in sub-clause (iv) of clause (b) of sub-section (1) of section 2, the provisions of rule 8 of Order I of the First Schedule to the Code of Civil Procedure, 1908 shall apply subject to the modification that every reference therein to a suit or decree shall be construed as a reference to a complaint or the order of the District Forum thereon."

12. In section 14 of the principal Act, in sub-section (1),—

(i) in the opening portion, for the word "take", the word "do" shall be substituted;

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

"(e) to remove the defects or deficiencies in the services in question;

(f) to discontinue the unfair trade practice or the restrictive trade practice or not to renew them;

(g) not to offer the hazardous goods for sale;

(h) to withdraw the hazardous goods from being offered for sale;

(i) to provide for adequate costs to parties."

13. In section 16 of the principal Act, in sub-section (1),—

(i) in clause (a), the following proviso shall be inserted at the end, namely:

"Provided that no appointment under this clause shall be made except after consultation with the Chief Justice of the High Court;"

(ii) after clause (b), for the proviso, the following proviso shall be substituted, namely:

"Provided that every appointment made under this clause shall be made by the State Government on the recommendation of a selection committee consisting of the following, namely:

(i) President of the State Commission—Chairman,
(ii) Secretary of the Law Department of the State — Member,

(iii) Secretary, in charge of Department dealing with consumer affairs in the State — Member;’;

(iii) in sub-section (2), the brackets and words "(including tenure of office)" shall be omitted;

(iv) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Every member of the State Commission shall hold Office for a term of five years or up to the age of sixty-seven years, whichever is earlier and shall not be eligible for re-appointment.

(4) Notwithstanding any thing contained in sub-section (3), a person appointed as a President or a member before the commencement of the Consumer Protection (Amendment) Ordinance, 1993, shall continue to hold such office as President or member, as the case may be, until the completion of his term.”.

14. In section 17 of the principal Act, in clause (a), in sub-clause (i), for the words "one lakh but does not exceed rupees ten lakhs", the words "five lakhs but does not exceed rupees twenty lakhs" shall be substituted.

15. In section 18 of the principal Act, for the words and figures "The procedure specified in sections 12, 13 and 14 and under the rules made thereunder", the words and figures "The provisions of sections 12, 13 and 14 and the rules made thereunder" shall be substituted.

16. In section 20 of the principal Act,—

(i) in sub-section (1),—

(A) in clause (a), the following proviso shall be inserted at the end, namely:—

"Provided that no appointment under this clause shall be made except after consultation with the Chief Justice of India;”;

(B) after clause (b), for the proviso, the following proviso shall be substituted, namely:—

"Provided that every appointment under this clause shall be made by the Central Government on the recommendation of a selection committee consisting of the following namely:—

(a) a person who is a Judge of the Supreme Court, to be nominated by the Chief Justice of India — Chairman,

(b) the Secretary in the Department of Legal Affairs in the Government of India — Member,

(c) Secretary of the Department dealing with consumer affairs in the Government of India — Member.";
(ii) in sub-section (2), the brackets and words "(including tenure of office)" shall be omitted;

(iii) after sub-section (2), the following sub-sections shall be inserted, namely:—

(3) Every member of the National Commission shall hold office for a term of five years or up to the age of seventy years, whichever is earlier and shall not be eligible for re-appointment.

(4) Notwithstanding anything contained in sub-section (3), a person appointed as a President or a member before the commencement of the Consumer Protection (Amendment) Ordinance, 1993, shall continue to hold such office as President or member, as the case may be, till the completion of his term:—

17. In section 21 of the principal Act, in clause (a), in sub-clause (i), for the words "ten lakhs", the words "twenty lakhs" shall be substituted.

18. For section 22 of the principal Act, the following section shall be substituted, namely:—

"22. The National Commission shall, in the disposal of any complaints or any proceedings before it, have—

(a) the powers of a civil court as specified in sub-section (4), (5) and (6) of section 13;

(b) the power to issue an order to the opposite party directing him to do any one or more of the things referred to in clause (a) to (1) of sub-section (1) of section 14;

and follow such procedure as may be prescribed by the Central Government:—"

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

"24A. (1) The District Forum, the State Commission or the National Commission shall not admit a complaint unless it is filed within one year from the date on which the cause of action has arisen.

(2) Notwithstanding anything contained in sub-section (1), a complaint may be entertained after the period specified in sub-section (1), if the complaint satisfies the District Forum, the State Commissioner or the National Commission, as the case may be, that he had sufficient cause for not filing the complaint within such period.

Provided that no such complaint shall be "entertained" unless the District Forum, the State Commission or the National Commission, as the case may be, records its reasons for condoning such delay.

24B. (1) The National Commission shall have administrative control over all the State Commissions in the following matters, namely:

(f) calling for periodic returns regarding the institution, disposal, pending, pendency of cases",
(ii) issuance of instructions regarding adoption of uniform procedure in the hearing of matters, prior service of copies of documents produced by one party to the opposite parties, furnishing of English translation of judgments written in any language, speedy grant of copies of documents;

(iii) generally overseeing the functioning of the State Commissions or the District Fora to ensure that the objects and purposes of the Act are best served without in any way interfering with their quasi-judicial freedom.

(2) The State Commission shall have administrative control over all the District Fora within its jurisdiction in all matters referred to in sub-section (1)."

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

"26 Where a complaint instituted before the District Forum, the State Commission or the National Commission, as the case may be, is found to be frivolous or vexatious, it shall, for reasons to be recorded in writing, dismiss the complaint and make an order that the complainant shall pay to the opposite party such cost, not exceeding ten thousand rupees, as may be specified in the order."

21. In section 27 of the principal Act,—

(a) after the words "against whom a complaint is made", the words "or the complainant" shall be inserted;

(b) after the words "such trader or person", the words "or complainant" shall be inserted.

22. In section 30 of the principal Act,—

(a) in sub-section (1), after the words "the provisions contained in", the words, brackets, letter and figures "clause (a) of sub-section (1) of section 2" shall be inserted;

(b) in sub-section (2), after the words "the provisions contained in", the words, brackets, letter and figures "clause (b) of sub-section (2) and sub-section (4) of section 7" shall be inserted.

SHANKER DAYAL SHARMA,
President.

A. C. C. UNNI,
Additional Secretary to the Govt. of India.
THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ORDINANCE, 1993

No. 25 of 1993

Promulgated by the President in the Forty-fourth year of the Republic of India.

An Ordinance to provide for the establishment of Tribunals for expeditious adjudication and recovery of debts due to banks and financial institutions and for matters connected therewith or incidental thereto.

WHEREAS the Recovery of Debts Due to Banks and Financial Institutions Bill, 1993 has been introduced in the House of the People and is pending in that House;

And whereas Parliament is not in session and the President is satisfied that the circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the Bill;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Recovery of Debts Due to Banks and Financial Institutions Ordinance, 1993.

(2) It extends to the whole of India except the State of Jammu and Kashmir.
8. (1) The Central Government shall, by notification, establish one or more Appellate Tribunals, to be known as the Debts Recovery Appellate Tribunal, to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Ordinance.

(2) The Central Government shall also specify in the notification, referred to in sub-section (1), the Tribunals in relation to which the Appellate Tribunal may exercise jurisdiction.

9. An Appellate Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer of the Appellate Tribunal) to be appointed, by notification, by the Central Government.

10. A person shall not be qualified for appointment as the Presiding Officer of an Appellate Tribunal unless he—

(a) is, or has been, or is qualified to be, a Judge of a High Court;

(b) has been a member of the Indian Legal Service and has held a post in Grade I of that Service for at least three years;

(c) has held office as the Presiding Officer of a Tribunal for at least three years.

11. The Presiding Officer of an Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.

12. The provisions of section 7 (except those relating to Recovery Officer) shall, so far as may be, apply to an Appellate Tribunal as they apply to a Tribunal and accordingly references in that section to “Tribunal” shall be construed as references to “Appellate Tribunal” and references to “Recovery Officer” shall be deemed to have been omitted.

13. The salary and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Presiding Officer of a Tribunal or an Appellate Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the said Presiding Officers shall be varied to their disadvantage after appointment.

14. If, for any reason other than temporary absence, any vacancy occurs in the office of the Presiding Officer of a Tribunal or an Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Ordinance to fill the vacancy and the proceedings may be continued before the Tribunal or the Appellate Tribunal from the stage at which the vacancy is filled.

15. (1) The Presiding Officer of a Tribunal or an Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the said Presiding Officer shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.
(2) The Presiding Officer of a Tribunal or an Appellate Tribunal shall not be removed from his office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after inquiry,—

(a) in the case of the Presiding Officer of a Tribunal, made by a Judge of a High Court;

(b) in the case of the Presiding Officer of an Appellate Tribunal, made by a Judge of Supreme Court,

in which the Presiding Officer concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the aforesaid Presiding Officer.

16. No order of the Central Government appointing any person as the Presiding Officer of a Tribunal or an Appellate Tribunal shall be called in question in any manner, and no act or proceeding before a Tribunal or an Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Tribunal or an Appellate Tribunal.

CHAPTER III

JURISDICTION, POWERS AND AUTHORITY OF TRIBUNALS

17. (1) A Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain and decide applications from the banks and financial institutions for recovery of debts due to such banks and financial institutions.

(2) An Appellate Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain appeals against any order made, or deemed to have been made, by a Tribunal under this Ordinance.

18. On and from the appointed day, no court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority (except the Supreme Court, and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to the matters specified in section 17.

CHAPTER IV

PROCEDURE OF TRIBUNALS

19. (1) Where a bank or a financial institution has to recover any debt from any person, it may make an application to the Tribunal within the local limits of whose jurisdiction—

(a) the defendant, or each of the defendants where there are more than one, at the time of making application, actually and voluntarily resides, or carries on business, or personally works for gain, or
(b) any of defendants, where there are more than one, at the
time of making the application, actually and voluntarily resides, or
carries on business, or personally works for gain; or

(c) the cause of action, wholly or in part, arises.

(2) Every application under sub-section (1) shall be in such form
and be accompanied by such documents or other evidence and by such
fee for filing the application as may be prescribed:

Provided that the fee may be prescribed having regard to the amount
of debt to be recovered:

Provided further that nothing contained in this sub-section relating
to fee shall apply to cases transferred to the Tribunal under sub-section
(1) of section 31.

(3) On receipt of the application under sub-section (1), the Tribunal
shall issue summons requiring the defendant to show cause within thirty
days of the service of summons as to why the relief prayed for should
not be granted.

(4) The Tribunal may, after giving the applicant and the defendant
an opportunity of being heard, pass such orders on the application as it
thinks fit to meet the ends of justice.

(5) The Tribunal shall send a copy of every order passed by it to the
applicant and the defendant.

(6) The Tribunal may make an interim order (whether by way of
injunction or stay) against the defendant to debar him from transferring,
alienating or otherwise dealing with, or disposing of, any property and
assets belonging to him without the prior permission of the Tribunal.

(7) The Presiding Officer shall issue a certificate under his signatures
on the basis of the order of the Tribunal, to the Recovery Officer for
recovery of the amount of debt specified in the certificate.

(8) The application made to the Tribunal under sub-section (1) shall
be dealt with by it as expeditiously as possible and endeavour shall be
made by it to dispose of the application finally within six months from
the date of receipt of application.

20. (1) Save as otherwise provided in sub-section (2), any person
aggrieved by an order made, or deemed to have been made, by a Tribu-
unal under this Ordinance, may prefer an appeal to an Appellate Tribu-
nal having jurisdiction in the matter.

(2) No appeal shall lie to the Appellate Tribunal from an order
made by a Tribunal with the consent of the parties.

(3) Every appeal under sub-section (1) shall be filed within a
period of forty-five days from the date on which a copy of the order
made, or deemed to have been made, by the Tribunal is received by
him and it shall be in such form and be accompanied by such fee as
may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after
the expiry of the said period of forty-five days if it is satisfied that
there was sufficient cause for not filing it within that period.
(4) On receipt of an appeal under subsection (1), the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned Tribunal.

(6) The appeal filed before the Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

21. Where an appeal is preferred by any person from whom the amount of debt is due to a bank or a financial institution or a consortium of banks or financial institutions, such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited with the Appellate Tribunal seventy-five percent of the amount of debt so due from him as determined by the Tribunal under section 19:

Provided that the Appellate Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section.

22. (1) The Tribunal and the Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Ordinance and of any rules, the Tribunal and the Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Tribunal and the Appellate Tribunal shall have, for the purpose of discharging their functions under this Ordinance, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:

(a) summoning and enforcing the attendance of any person and examining him on oath;
(b) requiring the discovery and production of documents;
(c) receiving evidence on affidavits;
(d) issuing commissions for the examination of witnesses or documents;
(e) reviewing its decisions;
(f) dismissing an application for default or deciding it ex parte;
(g) setting aside any order of dismissal of any application for default or any order passed by it ex-parte;
(h) any other matter which may be prescribed.

(3) Any proceeding before the Tribunal or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 226, and for the purposes of section 196, of the Indian Penal Code and the Tribunal or the Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 196 and Chapter XXVI of the Code of Criminal Procedure, 1973.
23. (1) A bank or a financial institution making an application to a Tribunal or an appeal to an Appellate Tribunal may authorise one or more legal practitioners or any of its officers to act as Presenting Officers and every person so authorised by it may present its case before the Tribunal or the Appellate Tribunal.

(2) The defendant may either appear in person or authorise one or more legal practitioners or any of his or its officers to present his or its case before the Tribunal or the Appellate Tribunal.

24. The provisions of the Limitation Act, 1963 shall, as far as may be, apply to an application made to a Tribunal.

CHAPTER V

RECOVERY OF DEBT DETERMINED BY TRIBUNAL

25. The Recovery Officer shall, on receipt of the copy of the certificate under sub-section (7) of section 19, proceed to recover the amount of debt specified in the certificate by one or more of the following modes, namely:—

(a) attachment and sale of the movable or immovable property of the defendant;

(b) arrest of the defendant and his detention in prison;

(c) appointing a receiver for the management of the movable or immovable properties of the defendant.

26. (1) It shall not be open to the defendant to dispute before the Recovery Officer the correctness of the amount specified in the certificate, and no objection to the certificate on any other ground shall also be entertained by the Recovery Officer.

(2) Notwithstanding the issue of a certificate to a Recovery Officer, the Presiding Officer shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by sending an intimation to the Recovery Officer.

(3) The Presiding Officer shall intimate to the Recovery Officer any order withdrawing or cancelling a certificate or any correction made by him under sub-section (2).

27. (1) Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the Presiding Officer may grant time for the payment of the amount, and thereupon the Recovery Officer shall stay the proceedings until the expiry of the time so granted.

(2) Where a certificate for the recovery of amount has been issued, the Presiding Officer shall keep the Recovery Officer informed of any amount paid or time granted for payment, subsequent to the issue of such certificate to the Recovery Officer.

(3) Where the order giving rise to a demand of amount for recovery of debt has been modified in appeal, and as a consequence thereof of the demand is reduced, the Presiding Officer shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal remains pending.
(4) Where a certificate for the recovery of debt has been received by the Recovery Officer and subsequently the amount of the outstanding demands is reduced as a result of an appeal, the Presiding Officer shall, when the order which was the subject-matter of such appeal has become final and conclusive, amend the certificate or withdraw it, as the case may be.

28.(1) Where a certificate has been issued to the Recovery Officer under sub-section (7) of section 19, the Recovery Officer may, without prejudice to the modes of recovery specified in section 25, recover the amount of debt by any one or more of the modes provided under this section.

(2) If any amount is due from any person to the defendant, the Recovery Officer may require such person to deduct from the said amount, the amount of such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Recovery Officer:

Provided that nothing in this sub-section shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908.

(3) (i) The Recovery Officer may, at any time or from time to time, by notice in writing, require any person from whom money is due or may become due to the defendant or to any person who holds or may subsequently hold money for or on account of the defendant, to pay to the Recovery Officer either forthwith upon the money becoming due or being held or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount of debt due from the defendant or the whole of the money when it is equal to or less than that amount.

(ii) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the defendant jointly with any other person and for the purposes of this sub-section, the shares of the joint holders in such amount shall be presumed, until the contrary is proved to be equal.

(iii) A copy of the notice shall be forwarded to the defendant at his last address known to the Recovery Officer and in the case of a joint account to all the joint holders at their last addresses known to the Recovery Officer.

(iv) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, bank, financial institution, or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like to be made before the payment is made notwithstanding any rule, practice or requirement to the contrary.

(v) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(vi) Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or the part
thereof, is not due to the defendant or that he does not hold any money for or on account of the defendant, then, nothing contained in this subsection shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Recovery Officer to the extent of his own liability to the defendant on the date of the notice, or to the extent of the defendant's liability for any sum due under this Ordinance, whichever is less.

(vii) The Recovery Officer may, at any time or from time to time, amend or revoke any notice under this sub-section or extend the time for making any payment in pursuance of such notice.

(viii) The Recovery Officer shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the defendant to the extent of the amount so paid.

(ix) Any person discharging any liability to the defendant after the receipt of a notice under this sub-section shall be personally liable to the Recovery Officer to the extent of his own liability to the defendant so discharged or to the extent of the defendant's liability for any debt due under this Ordinance, whichever is less.

(x) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Recovery Officer, he shall be deemed to be a defendant in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount, as if it were a debt due from him, in the manner provided in sections 25, 26 and 27 and the notice shall have the same effect as an attachment of a debt by the Recovery Officer in exercise of his powers under section 25.

(xi) The Recovery Officer may apply to the court in whose custody there is money belonging to the defendant for payment to him of the entire amount of such money, or if it is more than the amount of debt due, an amount sufficient to discharge the amount of debt so due.

(xii) The Recovery Officer may recover any amount of debt due from the defendant by distraint and sale of his moveable property in the manner laid down in the Third Schedule to the Income-tax Act, 1961.

29. The provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time shall, as far as possible, apply with necessary modifications as if the said provisions and the rules referred to the amount of debt due under this Ordinance instead of to the Income-tax.

Provided that any reference under the said provisions and the rules to the " assessee " shall be construed as a reference to the defendant under this Ordinance.

30. Notwithstanding anything contained in section 29, an order made by the Recovery Officer in exercise of his powers under sections 25 to 28 (both inclusive), shall be deemed to have been made by the Tribunal and an appeal against such order shall lie to the Appellate Tribunal.
CHAPTER VI

Miscellaneous

31. (1) Every suit or other proceeding pending before any court immediately before the date of establishment of a Tribunal under this Ordinance, being a suit or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after such establishment, within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal:

provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before any court.

(2) Where any suit or other proceeding stands transferred from any court to a Tribunal under sub-section (1),—

(a) the court shall, as soon as may be after such transfer, forward the records of such suit or other proceeding to the Tribunal; and

(b) the Tribunal may, on receipt of such records, proceed to deal with such suit or other proceeding, so far as may be, in the same manner as in the case of an application made under section 18 from the stage which was reached before such transfer or from any earlier stage or de-novo as the Tribunal may deem fit.

32. The Presiding Officer, the Recovery Officer and other officers and employees of a Tribunal and an Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

No suit, prosecution or other legal proceeding shall lie against Central Government or against the Presiding Officer of a Tribunal or Appellate Tribunal or against the Recovery Officer for anything done or intended to be done in pursuance of this Ordinance or any rule or order made thereunder.

As otherwise provided in sub-section (2), the provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any other law having effect by virtue of any law other than this Ordinance.

The provisions of this Ordinance or the rules made thereunder in addition to, and not in derogation of, the Industrial Finance Corporation Act, 1948, the State Financial Corporations Act, 1951, the Trust of India Act, 1953, the Industrial Reconstruction Bank of India Act, 1944 and the Sick Industrial Companies (Special Provisions) Act, 1955 shall have the effect of giving effect to the provisions of this Ordinance or the rules made thereunder if any difficulty arises in giving effect to the provisions of this Ordinance or the rules made thereunder or if any difficulty arises in giving effect to the provisions of this Ordinance or the rules made thereunder. If any difficulty arises in giving effect to the provisions of this Ordinance or the rules made thereunder, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Ordinance, as appear to it to be necessary or expedient for removing difficulties.
Provided that no such order shall be made after the expiry of the period of three years from the date of commencement of this Ordinance.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

36. (1) The Central Government may, by notification, make rules to carry out the provisions of this Ordinance.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salaries and allowances and other terms and conditions of service of the Presiding Officers, Recovery Officers and other officers and employees of the Tribunal and the Appellate Tribunal under sections 7, 12 and 13;

(b) the procedure for the investigation of misbehaviour or incapacity of the Presiding Officers of the Tribunals and Appellate Tribunals under sub-section (3) of section 18;

(c) the form in which an application may be made under section 19, the documents and other evidence by which such application shall be accompanied and the fees payable in respect of the filing of such application;

(d) the form in which an appeal may be filed before the Appellate Tribunal under section 30 and the fees payable in respect of such appeal;

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

SHANKER DAYAL SHARMA.

President.

A. C. C. UNNI.

Additional Secretary to the Govt. of India.

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THE CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION OF SMUGGLING ACTIVITIES (AMENDMENT) ORDINANCE, 1993

No. 26 of 1993

Promulgated by the President in the Forty-Fourth Year of the Republic of India.

An Ordinance further to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1993.

(2) It shall come into force at once.
2. In the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, in section 9, in sub-section (1), for the figures, letters and words “31st day of July, 1993”, the figures, letters and words “31st day of July, 1996” shall be substituted.

SHANKER DAYAL SHAHMA.

President.

A. C. C. UNNI.

Additional Secretary to the Govt. of India
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 30th June, 1993/Asadha 9, 1915 (Saka)

THE PREVENTION OF ILICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES
(AMENDMENT) ORDINANCE, 1993

No. 27 of 1993

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance further to amend the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Amendment) Ordinance, 1993.

(2) It shall come into force at once.
Amendment of section 10 of Act 46 of 1986.

2. In the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1986, in section 10, in sub-section (1), for the figures, letters and words “31st day of July, 1996”, the figures, letters and words “31st day of July, 1996” shall be substituted.

SHANKER DAYAL SHARMA,
President.

K. L. MORANPURIA,
Secy. to the Govt. of India.
The Gazette of India

EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 2nd July, 1993/Asadha 11, 1915 (Saka)

NO. 28 OF 1993

OIL AND NATURAL GAS COMMISSION (TRANSFER OF UNDERTAKING AND REPEAL) ORDINANCE, 1993

This Ordinance may be called the Oil and Natural Gas Commission (Transfer of Undertaking and Repeal) Ordinance, 1993.

It shall come into force at once.

In this Ordinance, unless the context otherwise requires,—

(a) "appointed day" means such date as the Central Government may, by notification in the Official Gazette, appoint under section 3.
(b) "Corporation" means the Oil and Natural Gas Corporation Limited, a company registered under the Companies Act, 1956.

(c) "Commission" means the Oil and Natural Gas Commission established under sub-section (1) of section 3 of the Oil and Natural Gas Commission Act, 1959.

3. On such date as the Central Government may, by notification in the Official Gazette appoint, the undertaking of the Commission shall stand transferred to, and vest in, the Corporation.

4. (1) On and from the appointed day, the entire capital of the Commission shall, by virtue of this Ordinance, stand vested in the Corporation.

(2) The undertaking of the Commission which is transferred to, and which vests in the Corporation under section 3 shall be deemed to include all assets, rights, powers, authorities and privileges and all properties, movable and immovable, real and personal, corporeal or incorporeal, in possession or reservation, present or contingent of whatever nature and wheresoever situate including lands, buildings, works, workshops, vehicles, oil rigs, oil platforms, cash balances, deposits, foreign currencies, reserves, reserve funds or any other investments, securities, tenancies, leases and book debts and all other right and interests arising out of such properties as were immediately before the appointed day in the ownership, possession or power of the Commission in relation to its undertaking, whether within or outside India, all books of account and registers, records and documents relating thereto and shall also be deemed to include all liabilities and obligations of whatever kind, within or outside India of the Commission in relation to its undertaking subsisting immediately before the appointed day.

(3) All contracts, deeds, bonds, guarantees, powers of attorney, other instruments and working arrangements subsisting immediately before the appointed day and affecting the Commission shall cease to have effect or to be enforceable against the Commission and shall be of as full force and effect against or in favour of the Corporation and enforceable as fully and effectually as if, instead of the Commission, the Corporation had been named therein or had been a party thereto.

(4) Any proceeding or cause of action pending or existing immediately before the appointed day by or against the Commission, in relation to its undertaking may, as from the appointed day, be continued and enforced by or against the Corporation as it might have been enforced by or against the Commission, if this Ordinance had not been promulgated, and shall cease to be enforceable by or against the Commission.

5. With effect from the appointed day, all licences, leases, concessions, permits, quotas, benefits, privileges and exemptions granted to the Commission in connection with the affairs of the Commission under any law for the time being in force, shall be deemed to have been granted to the Corporation.
6 (1) Where any exemption from, or any assessment with respect to, any tax has been granted or made or any benefit by way of set off or carry forward of any unabsorbed depreciation or investment allowance or other allowance or loss has been extended or is available to the Commission under the Income-tax Act, 1961, such exemption, assessment or benefit shall continue to have effect in relation to the Corporation.

(2) Where any payment made by the Commission is exempt from deduction of the tax at source under any provision of the Income-tax Act, 1961, the exemption from tax will continue to be available as if the provisions of the said Act made applicable to the Commission were operative in relation to the Corporation.

(3) The transfer and vesting of the undertaking or any part thereof in terms of section 3 shall not be construed as a transfer within the meaning of the Income-tax Act, 1961, for the purpose of capital gains.

7. Any guarantee given for or in favour of the Commission with respect of any loan or lease finance or other assistance shall continue to be operative in relation to the Corporation.

8. (1) Every officer or other employee of the Commission (except a member or the chairman) serving in its employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in the Corporation by virtue of this Ordinance, become, as from the appointed day, an officer or, as the case may be, other employee of the Corporation and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, passage, insurance, superannuation scheme, provident fund, other funds, retirement, pension, gratuity and other benefits as he would have held under the Commission if its undertaking had not vested in the Corporation and shall continue to do so as an officer or other employee of the Corporation for until the expiry of a period of one year from the appointed day if such officer or other employee opts not to be the officer or other employee of the Corporation within such period.

(2) Where an officer or other employee of the Commission opts under sub-section (1) not to be in the employment or service of the Corporation such officer or other employee shall be deemed to have resigned.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of the Commission to the Corporation shall not entitle such officer or other employee to any compensation under this Ordinance or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or authority.

(4) The officers and other employees who have retired before the appointed day from the service of the Commission and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the Corporation.

(5) The trusts of the provident fund, gratuity fund or the superannuation scheme of the Commission and any other bodies created for the benefit of officers or other employees shall continue to discharge their functions in the Corporation as was being done hitherto in the Commission.
sion and any tax exemption granted to the provident fund, gratuity fund and superannuation scheme or any other bodies created for the welfare of officers or other employees would continue to be applied to the Corporation.

9. (1) Notwithstanding anything contained in this Ordinance or in the Companies Act, 1956 or in any other law for the time being in force or in the regulations of the Commission, no member or chairman of the Commission shall be entitled to any compensation against the Commission or the Corporation for the loss of office or for the premature termination of any contract of management entered into by him with the Commission.

9. (1) For the purposes of ascertaining the availability of any oil or natural gas, the Central Government may, on the request being made by the Corporation, authorise any officer or employee of the Corporation by general or special order,—

(a) to enter and inspect any land;

(b) to survey and take measurements of any such land;

(c) to dig holes or perform any other functions for the purposes of measuring or prospecting for the availability of oil and natural gas; and

(d) to examine any document, book, register or record in the possession or power of any person having the control of or connected with any such land and place marks of identification thereon and take extracts from and make copies of any such document, book, register or record.

(2) Every person authorised by the Central Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

(3) The Corporation shall be liable to pay compensation for any loss or damage caused to the land caused by its officers or employees in performing the functions under sub-section (1) in such manner as may be prescribed by rules made under this Ordinance to the occupier of the land.

(4) The amount of compensation payable under sub-section (3) shall be determined by the competent authority appointed by the Central Government in the manner prescribed by rules made under this Ordinance.

10. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

(2) Every rule made under this Ordinance shall be laid, as soon as may be after it is made before each house of Parliament, while in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or omission shall be without prejudice to the validity of anything previously done under the rule.
(1) On the appointed day, the Oil and Natural Gas Commission Act, 1959 shall stand repealed.

(2) Notwithstanding such repeal, the Corporation shall, so far as may be, comply with the provisions of section 22 and 23 of the said Act so repealed for any of the purposes related to the annual accounts of the Commission.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 19th July, 1993/Asadha 28, 1915 (Saka)

THE PARLIAMENT (PREVENTION OF DISQUALIFICATION) AMENDMENT ORDINANCE, 1993

No. 29 of 1993

An Ordinance further to amend the Parliament (Prevention of Disqualification) Act, 1959

Promulgated by the President in the Forty-Fourth Year of the Republic of India.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Parliament (Prevention of Disqualification) Amendment Ordinance, 1993.

(2) It shall come into force at once.
2. In section 3 of the Parliament (Prevention of Disqualification) Act, 1959 (hereinafter referred to as the principal Act),—

(a) after clause (oa), the following clause shall be inserted, namely:

"(ob) the office of Deputy Chairman, Planning Commission;"

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

"(i) the office of chairman, director or member of any statutory or non-statutory body other than any such body as is referred to in clause (h) if the holder of such office is not entitled to any remuneration other than compensatory allowance, but excluding (if the office of chairman of any statutory or non-statutory body specified in Part I of the Schedule and (ii) the office of chairman or secretary of any statutory or non-statutory body specified in Part II of the Schedule);"

3. In the Schedule to the principal Act, Part III shall be omitted.

SHANKER DAYAL SHARMA,
President,

K. L. MOHANPURIA,
Secy. to the Govt. of India.
THE PROTECTION OF HUMAN RIGHTS ORDINANCE, 1993

No. 30 of 1993

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An ordinance to provide for the constitution of a National Human Rights Commission, State Human Rights Commissions in States and Human Rights Courts for better protection of human rights and for matters connected therewith or incidental thereto.

Whereas the Human Rights Commissions Bill, 1993 for the constitution of the said Commissions has been introduced in Parliament but has not yet been passed;

And whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;
Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

CHAPTER I
PRELIMINARY

1. (1) This Ordinance may be called the Protection of Human Rights Ordinance, 1993.
   
   (2) It extends to the whole of India.
   
   (3) It shall come into force at once.

2. (1) In this Ordinance, unless the context otherwise requires,—
   
   (a) "armed forces" means the naval, military and air forces and includes any other armed forces of the Union;
   
   (b) "Chairperson" means the Chairperson of the Commission or of the State Commission as the case may be;
   
   (c) "Commission" means the National Human Rights Commission constituted under section 3;
   
   (d) "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Conventions and enforceable by courts in India;
   
   (e) "Human Rights Court" means the Human Rights Court specified under section 30;
   
   (f) "International Conventions" means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16th December, 1966;
   
   (g) "Member" means a Member of the Commission or of the State Commission, as the case may be, and includes the Chairperson;
   
   (h) "National Commission for Minorities" means the National Commission for Minorities constituted under section 3 of the National Commission for Minorities Act, 1992;
   
   (i) "National Commission for the Scheduled Castes and Scheduled Tribes" means the National Commission for the Scheduled Castes and Scheduled Tribes referred to in article 338 of the Constitution;
   
   (j) "National Commission for Women" means the National Commission for Women constituted under section 3 of the National Commission for Women Act, 1990;
   
   (k) "notification" means a notification published in the Official Gazette;
   
   (l) "prescribed" means prescribed by rules made under this Ordinance;
(m) "public servant" shall have the meaning assigned to it in section 21 of the Indian Penal Code;

(n) "State Commission" means a State Human Rights Commission constituted under section 21.

(2) Any reference in this Ordinance to a law, which is not in force in the State of Jammu and Kashmir, shall in relation to that State be construed as a reference to a corresponding law, if any, in force in that State.

CHAPTER II

THE NATIONAL HUMAN RIGHTS COMMISSION

3. (1) The Central Government shall constitute a body to be known as the National Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, it under this Ordinance.

(2) The Commission shall consist of—

(a) a Chairperson who has been a Chief Justice of the Supreme Court;

(b) one Member who is, or has been, a Judge of the Supreme Court;

(c) one Member who is, or has been, the Chief Justice of a High Court;

(d) two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

(3) The Chairperson of the National Commission for Minorities, the National Commission for the Scheduled Castes and Scheduled Tribes and the National Commission for Women, shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of section 12.

(4) There shall be a Secretary-General who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions of the Commission as it may delegate to him.

(5) The headquarters of the Commission shall be at Delhi and the Commission may, with the previous approval of the Central Government, establish offices at other places in India.

4. (1) The Chairperson and other Members shall be appointed by the President by warrant under his hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendations of a Committee consisting of—

(a) the Prime Minister—Chairperson;

(b) Speaker of the House of the People—member;

(c) Minister in-charge of the Ministry of Home Affairs in the Government of India—member;
CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

12. The Commission shall perform all or any of the following functions, namely:

(a) inquire, *suo motu* or on a petition presented to it by victim or any person on his behalf, into complaint of,—

(i) violation of human rights or abetment thereof; or

(ii) negligence in the prevention of such violation,

by a public servant;

(b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;

(c) visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon;

(d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;

(e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;

(f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;

(g) undertake and promote research in the field of human rights;

(h) spread human rights literacy among various sections of society and promote awareness, of the safeguards available for the protection of these rights, through publications, the media, seminars and other available means;

(i) encourage the efforts of non-governmental organisations and institutions working in the field of human rights;

(j) such other functions as it may consider necessary for the promotion of human rights.

13: (1) The Commission shall, while inquiring into complaints under this Ordinance have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908, and in particular in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of witnesses and examining them on oath;

(b) discovery and production of any document;

(c) receiving evidence on affidavits;
(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents;

(f) any other matter which may be prescribed.

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code.

(3) The Commission or any other officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.

(4) The Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statements of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

(5) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for purposes of section 196, of the Indian Penal Code, and the Commission shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

14. (1) The Commission may for the purpose of conducting any investigation pertaining to the inquiry utilise the services of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.

(2) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilised under sub-section (1) may, subject to the direction and control of the Commission—

(a) summon and enforce the attendance of any person and examine him;

(b) require the discovery and production of any document; and

(c) requisition any public record or copy thereof from any office.
(3) The provisions of section 15 shall apply in relation to any statement made by a person before any officer or agency whose services are utilised under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

(4) The officer or agency whose services are utilised under sub-section (1) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf.

(5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under sub-section (4) and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.

15. No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement:—

(a) is made in reply to the question which he is required by the Commission to answer; or

(b) is relevant to the subject matter of the inquiry.

16. If, at any stage of the inquiry, the Commission,——

(a) considers it necessary to inquire into the conduct of any person; or

(b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry,

it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

CHAPTER IV

PROCEDURE

17. The Commission while inquiring into the complaints of violations of human rights may——

(i) call for information or reports from the Central Government or any State Government or any other authority or organisation subordinate thereto within such time as may be specified by it:

Provided that——

(a) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;
(b) if, on receipt of information or report, the Commission is satisfied that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly.

(ii) without prejudice to anything contained in clause (i), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.

18. The Commission may take any of the following steps upon the conclusion of an inquiry held under this Ordinance, namely:

1. where the inquiry discloses, the commission of violation of human rights, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit, against the concerned person or persons;

2. approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;

3. recommend to the concerned Government or authority for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;

4. subject to the provisions of clause (5) provide copy of the inquiry report to the petitioner or his representative;

5. the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;

6. the Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.

19. (1) Notwithstanding anything contained in this Ordinance, while dealing with complaints of violation of human rights by members of the armed forces, the Commission shall adopt the following procedure, namely:

(a) it may, either on its own motion or on receipt of a petition, seek a report from the Central Government;

(b) after the receipt of the report, it may either not proceed with the complaint or as the case may be, make its recommendations to that Government.

(2) The Central Government shall inform the Commission of the action taken on the recommendations within three months or such further time as the Commission may allow.
(3) The Commission shall publish its report together with its recommendations made to the Central Government and the action taken by that Government on such recommendations.

(4) The Commission shall provide a copy of the report published under sub-section (3) to the petitioner or his representative.

20. (1) The Commission shall submit an annual report to the Central Government and to the State Government concerned and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The Central Government and the State Government, as the case may be, shall cause the annual and special reports of the Commission to be laid before each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any.

CHAPTER V

STATE HUMAN RIGHTS COMMISSIONS

21. (1) A State Government may constitute a body to be known as the,.................... (name of the State) Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission under this Chapter.

(2) The State Commission shall consist of—

(a) a Chairperson who has been a Chief Justice of a High Court;

(b) one Member who is, or has been, a Judge of a High Court;

(c) one Member who is, or has been, a district judge in that State;

(d) two members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

(3) There shall be a Secretary who shall be the Chief Executive Officer of the State Commission and shall exercise such powers and discharge such functions of the State Commission as it may delegate to him.

(4) The headquarters of the State Commission shall be at such place as the State Government may, by notification, specify.

(5) A State Commission may inquire into violation of human rights only in respect of matters relatable to any of the entries enumerated in List II and List III in the Seventh Schedule to the Constitution;

Provided that if any such matter is already being inquired into by the Commission or any other Commission duly constituted under any law for the time being in force, the State Commission shall not inquire into the said matter.
Provided further that in relation to the Jammu and Kashmir Human Rights Commission, this sub-section shall have effect as if that for the words and figures “List II and List III” the words and figures “List III, as applicable to the State of Jammu and Kashmir,” had been substituted.

22. (1) The Chairperson and other Members shall be appointed by the Governor by warrant under his hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendation of a Committee consisting of—

(a) the Chief Minister—chairperson;

(b) Speaker of the Legislative Assembly—member;

(c) Minister in-charge of the Department of Home in that State—member;

(d) Leader of the Opposition in the Legislative Assembly—member.

Provided further that where there is a Legislative Council in a State, the Chairman of that Council and the leader of the opposition in that Council shall also be members of the Committee:

Provided also that no sitting Judge of a High Court or a sitting district judge shall be appointed except after consultation with the Chief Justice of the High Court of the concerned State.

(2) No appointment of a Chairperson or a Member of the State Commission shall be invalid merely by reason of any vacancy in the Committee.

23. (1) Subject to the provisions of sub-section (2), the Chairperson or any other Member of the State Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such other Member, as the case may be, ought on any such ground to be removed.

(2) Notwithstanding anything in sub-section (1), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be,—

(d) is adjudged an insolvent; or

(b) engages during his term of office in any paid employment outside the duties of his office; or

(c) is, unfit to continue in office by reason of infirmity of mind or body; or

(d) is of unsound mind and stands so declared by a competent court; or

(e) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.
24. (1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

(3) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of a State or under the Government of India.

25. (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Governor may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the Governor may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

26. The salaries and allowances payable to, and other terms and conditions of service of, the Members shall be such as may be prescribed by the State Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of a Member shall be varied to his disadvantage after his appointment.

27. (1) The State Government shall make available to the Commission—

(a) an officer not below the rank of a Secretary to the State Government who shall be the Secretary of the State Commission, and

(b) such police and investigative staff under an officer not below the rank of an Inspector General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the State Commission.

(2) Subject to such rules as may be made by the State Government in this behalf, the State Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed by the State Government.
28. (1) The State Commission shall submit an annual report to the State Government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The State Government shall cause the annual and special reports of the State Commission to be laid before each House of State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House along with a memorandum of action taken or proposed to be taken on the recommendations of the State Commission and the reasons for non-acceptance of the recommendations, if any.

29. The provisions of sections 9, 10, 12, 13, 14, 15, 16, 17 and 18 shall apply to a State Commission and shall have effect, subject to the following modifications, namely:—

(a) references to "Commission" shall be construed as references to "State Commission";

(b) in section 10, in sub-section (3), for the word "Secretary-General", the word "Secretary" shall be substituted;

(c) in section 12, clause (f) shall be omitted;

(d) in section 17, in clause (i), the words "Central Government or any" shall be omitted.

CHAPTER VI
HUMAN RIGHTS COURTS

30. For the purpose of providing for speedy trial of offences arising out of violation of human rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district a Court of Session to be a Human Rights Court to try the said offences:

Provided that nothing in this section shall apply if—

(a) a Court of Session is already specified as a special court; or

(b) a special court is already constituted,

for such offences under any other law for the time being in force.

31. For every Human Rights Court, the State Government shall, by notification, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

CHAPTER VII
FINANCE, ACCOUNTS AND AUDIT

32. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grant such sums of money as the Central Government may think fit for being utilised for the purposes of this Ordinance.
(2) The Commission may spend such sums as it thinks fit for performing the functions under this Ordinance, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

33. (1) The State Government shall, after due appropriation made by Legislature by law in this behalf, pay to the State Commission by way of grants such sums of money as the State Government may think fit for being utilised for the purposes of this Ordinance.

(2) The State Commission may spend such sums as it thinks fit for performing the functions under Chapter V, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

34. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultations with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Ordinance shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission and the Central Government shall cause the audit report to be laid, as soon as may be, after it is received, before each House of Parliament.

35. (1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the State Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the State Commission under this Ordinance shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and
Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Commission.

(4) The accounts of the State Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be, after it is received, before the State Legislature.

CHAPTER VIII

MISCELLANEOUS

36. (1) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

(2) The Commission or the State Commission shall not inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.

37. Notwithstanding anything contained in any other law for the time being in force, where the Government considers it necessary so to do, it may constitute one or more special investigation teams, consisting of such police officers as it thinks necessary for purposes of investigation and prosecution of offences arising out of violations of human rights.

38. No suit or other legal proceeding shall lie against the Central Government, State Government, Commission, State Commission or any Member thereof or any person acting under the direction either of the Central Government, State Government, Commission or the State Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance or of any rules or any order made thereunder or in respect of the publication by or under the authority of the Central Government, State Government, the Commission or the State Commission of any report, paper or proceedings.

39. Every Member of the Commission, State Commission and every officer appointed or authorised by the Commission or the State Commission to exercise functions under this Ordinance shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

40. (1) The Central Government may, by notification, make rules to carry out the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:

(a) the salaries and allowances and other terms and conditions of service of the Members under section 8;
(b) the conditions subject to which other administrative, technical and scientific staff may be appointed by the Commission and the salaries and allowances of officers and other staff under sub-section (3) of section 11;

(c) any other power of a civil court required to be prescribed under clause (f) of sub-section (1) of section 13;

(d) the form in which the annual statement of accounts is to be prepared by the Commission under sub-section (1) of section 34; and

(e) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

41. (1) The State Government may, by notification, make rules to carry out the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:—

(a) the salaries and allowances and other terms and conditions of service of the Members under section 26;

(b) the conditions subject to which other administrative, technical and scientific staff may be appointed by the State Commission and the salaries and allowances of officers and other staff under sub-section (3) of section 27;

(c) the form in which the annual statement of accounts is to be prepared under sub-section (1) of section 35.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

42. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Ordinance as appear to it to be necessary or expedient for removing the difficulty:
provided that no such order shall be made after the expiry of the
of two years from the date of commencement of this Ordinance.

Every order made under this section shall, as soon as may be
is made, be laid before each House of Parliament.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

CORRIGENDA

In the Interest on Delayed Payments to Small Scale and Ancillary
Industrial Undertakings Ordinance, 1993 (Ord. 4 of 1993) as published in
the Gazette of India, Extraordinary, Part II, Section 1, dated the 2nd
January, 1993 (Issue No. 6),—

At page 3,—

(i) in line 20, for “section 4 and 5”, read “sections 4 and 5”;

(ii) in line 32, for “at the end”, read “at the end”.

CORRIGENDA

In the Industrial Finance Corporation (Transfer of Undertaking and
Repeal) Ordinance, 1993 (Ord. 5 of 1993) as published in the Gazette of
India, Extraordinary, Part II, Section 1, dated the 2nd January, 1993
(Issue No. 7),—

1. At page 2, in line 4, for “Act”, read “Ordinance”.

2. At page 3,—

(i) in line 37, for “Director of the Board”, read “a Director
of the Board”;

(ii) in line 42, for “shall held”, read “shall hold”.

3. At page 4, in line 20, for “trust” read “trusts”.

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Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Ordinance.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

SHANKER DAYAL SHARMA,
President.

K. L. MOHAMPURIA,
Secy. to the Govt. of India.

CORRIGENDA

In the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1993 (Ord. 4 of 1993) as published in the Gazette of India, Extraordinary, Part II, Section I, dated the 2nd January, 1993 (Issue No. 6),—

At page 3,—

(i) in line 20, for “section 4 and 5”, read “sections 4 and 5”;

(ii) in line 31, for “at the end”, read “at the end”;

CORRIGENDA

In the Industrial Finance Corporation (Repeal) Ordinance, 1993 (Ord. 5 of 1993) as published in the Gazette of India, Extraordinary, Part II, Section I, dated the 2nd January, 1993 (Issue No. 7),—

1. At page 2, in line 4, for “Act” read “Ordinance”.

2. At page 3,—

(i) in line 37, for “Directors of the Board”; (ii) in line 42, for “shall” read “shall not”.

3. At page 4, in line 20, for “it” read “the said Scheme.”
THE KALAKSHETRA FOUNDATION ORDINANCE, 1993

No. 31 of 1993

Promulgated by the President in the Forty-fourth Year of the Republic of India,

An Ordinance to declare Kalakshetra of Madras to be an institution of national importance, to provide for the establishment and incorporation of a Foundation for its administration, to make provisions for further development of Kalakshetra in accordance with the aims and objects for which Kalakshetra was founded and for matters connected therewith or incidental thereto.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Kalakshetra Foundation Ordinance, 1993.

(2) It shall come into force on the day of
2. Whereas the objects of the institution known as Kalakshetra at Adyar, Madras in the State of Tamil Nadu, founded by the late Thirumathi Rukmini Devi Arundale, are such as to make the institution one of national importance, it is hereby declared that the institution known as Kalakshetra is an institution of national importance.

3. In this Ordinance, unless the context otherwise requires,—

(a) "Academic Committee" means the Academic Committee constituted under section 15;

(b) "appointed day" means the date on which the Foundation is established under sub-section (1) of section 8;

(c) "Board of Trustees" means the Board of Trustees managing the affairs of Kalakshetra under the 'scheme writ' approved by the Madras High Court in petition No. 716 of 1985;

(d) "constituent units" means the units of Kalakshetra specified in the First Schedule;

(e) "Director" means the Director appointed under sub-section (1) of section 13;

(f) "Finance Committee" means the Finance Committee constituted under sub-section (2) of section 17;

(g) "Foundation" means the Kalakshetra Foundation established under sub-section (1) of section 8;

(h) "Fund" means the Fund of the Foundation referred to in section 22;

(i) "Governing Board" means the Governing Board constituted under section 11;

(j) "Kalakshetra" means the institution known as Kalakshetra founded by late Thirumathi Rukmini Devi Arundale, situated at Adyar, Madras, and includes its constituent units;

(k) "notification" means a notification published in the Official Gazette;

(l) "Member" means a Member of the Governing Board and includes the Chairperson thereof;

(m) "prescribed" means prescribed by rules made under this Ordinance;

(n) "regulations" means regulations made under section 32;

(o) "Schedule" means a Schedule annexed to this Ordinance;

(p) "State Government" means the Government of Tamil Nadu.
CHAPTER II

ACQUISITION AND TRANSFER OF THE ASSETS AND PROPERTIES OF KALAKSHETRA

4. On the commencement of this Ordinance, the right, title and interest in relation to the assets and properties of Kalakshetra specified in the Second Schedule and vested in the Board of Trustees or any other body, in whatever capacity, shall stand transferred to, and vest in, the Central Government.

5. (1) The right, title and interest vested in the Central Government under section 4 shall be deemed to include all the assets, rights, leaseholds, powers, authorities, licences and privileges; all property (movable and immovable) including lands and buildings; musical instruments; equipments used in teaching, training and staging of performing arts; tools and facilities used in arts and crafts; costumes and decorative items; books; stationery, furniture and other equipments used in libraries and laboratories; works of art and artefacts; stores, automobiles and other vehicles; workshops, cash balances, funds including reserve funds, investments and all other rights and interests arising out of such assets and properties as were, immediately before the commencement of this Ordinance in the possession, ownership, power or control of the Board of Trustees or any other body, in whatever capacity, and all books of account, registers, maps, plans and all other documents of whatever nature relating thereto.

(2) All assets and properties as aforesaid which have vested in the Central Government under section 4 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting them or of any attachment, injunction, decree or order of any court or other authority restricting the use of such assets or properties in any manner, or appointing any receiver in respect of the whole or any part of such assets and properties shall be deemed to have been withdrawn.

(3) Any licence, permission, authority, concession, facility, privilege, affiliation or any other instrument of similar nature granted to the Board of Trustees or any other body, in whatever capacity, in relation to the assets and properties of Kalakshetra or any of its constituent units which has vested in the Central Government under section 4, at any time before the commencement of this Ordinance and in force immediately before such commencement, shall continue to be in force on and after such commencement in accordance with its tenor in relation to, and for purposes of, such assets and properties, or where the direction under section 6 has been issued, the Foundation shall be deemed to be substituted in such licence, permission, authority, concession, facility, privilege, affiliation or other instrument, as if it had been granted to the Foundation and the Foundation shall hold it for the remainder of the period for which the Board of Trustees or any other body, in whatever capacity, would have held it under the terms thereof.
(4) If on the commencement of this Ordinance, any suit, appeal or other proceeding of whatever nature in relation to any assets or properties which have vested in the Central Government under section 4, instituted or preferred by the Board of Trustees is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of such transfer and vesting, or of anything contained in this Ordinance, but the suit, appeal or other proceeding may be continued, prosecuted or enforced, by the Central Government or where the right, title and interest in relation to such assets and properties are directed under section 6 to vest in the Foundation, by the Foundation.

6. (1) Notwithstanding anything contained in section 4 and 5, the Central Government shall direct, by notification, that the right, title and interest in relation to the assets and properties of Kalakshetra, which had vested in it under section 4, shall vest in the Foundation on such date, not being a date earlier than the date of commencement of this Ordinance, as may be specified in the notification.

(2) On and from the date of vesting of the right, title and interest in relation to the assets and properties of Kalakshetra in the Foundation under sub-section (1),—

(a) the Foundation shall be deemed to have become the owner of the assets and properties; and

(b) the rights and liabilities of the Central Government, in relation to such assets and properties shall be deemed to have become the rights and liabilities respectively of the Foundation.

7. (1) On the vesting in the Central Government of the assets and properties of Kalakshetra, all persons in charge of the management of the said assets and properties immediately before the date of such vesting, shall be bound to deliver to the Central Government or to the Foundation or to such person or body of persons as the Central Government or the Foundation may specify in this behalf, all assets, properties, books of account, registers or other documents in their custody relating to the assets and properties of Kalakshetra.

(2) Every person who has, in his possession or control any assets, properties, books, documents or other papers relating to Kalakshetra which have vested in the Central Government or the Foundation under this Ordinance, and which belong to Kalakshetra or would have so belonged if Kalakshetra had not vested in the Central Government or the Foundation, shall be liable to account for the said assets, properties, books, documents and other papers to the Central Government or the Foundation, as the case may be, and shall deliver them up to the Central Government or the Foundation or to such person or body of persons as the Central Government or the Foundation may specify in this behalf.

(3) The Central Government shall take or cause to be taken all necessary steps for securing possession of assets and properties of Kalakshetra which have vested in it under section 4.
CHAPTER III

KALAKSHETRA FOUNDATION

8. (1) With effect from such date as the Central Government may, by notification, appoint in this behalf there shall be established a Foundation to be called the Kalakshetra Foundation.

(2) The Foundation shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The office of the Foundation shall be located at Thiruvananthapuram, Madras.

9. The objects of the Foundation shall be—

(i) to emphasise the essential unity of all true arts;

(ii) to work for the recognition of the arts as vital to the individual, national and international growth;

(iii) to maintain the highest traditions of art and culture in their pristine purity and in conformity with traditions;

(iv) to arrange for the training, research, study, teaching and development of art and science, music, dance-drama, fine arts and Bharat-Natyam; and

(v) to ensure that the principles of “education without fear” and “art without vulgarity” are adhered to in the activities of the Foundation and not to permit any deviation from these high ideals.

10. (1) The Foundation shall consist of the following authorities, namely:

(a) the Governing Board;

(b) the Academic Committee; and

(c) the Finance Committee.

(2) In the discharge of functions and exercise of powers under this Ordinance, the authorities referred to in sub-section (1) shall be guided by the objects specified in section 9.

11. The Governing Board shall consist of—

(a) a Chairperson, who shall be a person of high eminence in public life, to be appointed by the Central Government;

(b) not more than twelve Members to be nominated by the Central Government from amongst persons who—

(i) have rendered valuable service to Kalakshetra;

(ii) have been connected with, or have knowledge of art, culture, folk arts and crafts;

(iii) are eminent artists; and

(iv) are patrons of art and culture;
(c) two persons, possessing one or more of the qualifications referred to in sub-clauses (i) to (iv) of clause (b), to be nominated by the State Government;

(d) two officers of the Central Government, not below the rank of a Deputy Secretary, to be nominated by that Government, to represent the Ministry of the Central Government dealing with Culture, ex officio;

(e) one officer of the State Government, not below the rank of Joint Secretary, to be nominated by that Government, to represent the Department of Education of that Government, ex officio; and

(f) the Director, ex officio.

12. (1) The term of office of the Members shall be five years from the date of constitution of the Governing Board.

(2) If a casual vacancy occurs in the office of a Member nominated under clause (b) or clause (c) of sub-section (1) of section 11, whether by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity, such vacancy shall be filled by making fresh nomination and the Member so nominated, shall hold office for the remainder of the term of office of the Member in whose place he is so nominated.

(3) An outgoing Member shall be eligible for re-nomination.

(4) A Member may resign his office by writing under his hand addressed to the Central Government but shall continue in office until his resignation is accepted by that Government.

(5) The Members nominated under clauses (b) and (c) of sub-section (7) of section 11 shall be entitled to such allowances as may be prescribed.

13. (1) The Governing Board shall meet at least twice in a year at Madras at such time as may be fixed by the Chairperson of the Governing Board.

(2) All decisions at the meeting of the Governing Board shall be taken by majority of the Members present and voting;

Provided that in the case of equality of votes the Chairperson of the Governing Board shall have a casting vote.

(3) The Governing Board shall observe such procedure in regard to the transaction of its business at its meetings (including the quorum at its meetings) as may be specified by regulations.

(4) No act or proceeding of the Governing Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution, the Governing Board; or

(b) any defect in the nomination of a person acting as a Member of the Governing Board; or

(c) any irregularity in the procedure of the Governing Board not affecting the merits of the case.
14. (1) The Governing Board shall be the supreme authority of the Foundation and the general superintendence, direction and management of the affairs of the Foundation shall vest in the Governing Board.

(2) The Governing Board shall exercise such powers and discharge such functions as may be prescribed.

15. (1) The Academic Committee shall consist of—

(a) the Director;

(b) the Heads of the constituent units;

(c) three distinguished persons in the field of art and culture including dance, music, folk arts and crafts, to be nominated by the Central Government; and

(d) one person to be nominated by the State Government, representing the Department of Education of that Government.

(2) The tenure of office and other terms and conditions of the members of the Academic Committee shall be such as may be specified by regulations.

(3) The Academic Committee shall observe such procedure in regard to the transaction of its business at its meetings (including the quorum at the meetings) as may be specified by regulations.

16. The Academic Committee shall be responsible for the maintenance of standards of education, training and examination conducted by the constituent units and shall exercise such other powers and perform such other functions as may be assigned to it, from time to time, by the Governing Board.

17. (1) Finance Committee shall consist of—

(a) the Financial Adviser to the Government of India or his nominee in the Ministry of the Central Government dealing with Culture;

(b) an officer of the Central Government, not below the rank of a Deputy Secretary, to be nominated by that Government;

(c) an officer of the State Government not below the rank of a Deputy Secretary, to be nominated by that Government, representing the Department of Finance of that Government; and

(d) the Director.

(2) The Finance Committee shall observe such procedure in regard to the transaction of the business at its meetings as may be specified by regulations.

18. The Finance Committee shall—

(i) scrutinize the annual statement of accounts and budget estimates of the Foundation prepared by the Director and make recommendations to the Governing Board;

(ii) prescribe the limits of the recurring and non-recurring expenditure of the Foundation for each financial year;
(iii) review the financial position of the Foundation from time to time and have an internal audit conducted; and

(iv) perform such other functions as may be prescribed.

19. (1) The Central Government shall, by notification, appoint a Director who shall be the principal executive officer of the Foundation and shall be responsible for the proper administration of the affairs of the Foundation and its day-to-day management and shall exercise such other powers and perform such other duties as may be assigned to him by the Government Board.

(2) The Director shall prepare the annual statement of accounts and budget estimates of the Foundation for scrutiny by the Finance Committee.

(3) The Director shall be a whole-time employee of the Foundation and shall be entitled to such salary and allowances out of the Fund and shall be subject to such conditions of service in respect of leave, pension, provident fund and other matters, as may be prescribed.

20. On and from the appointed day, every officer or other employee, employed immediately before the appointed day in connection with the affairs of Kalakshetra shall become an officer or other employee of the Foundation and shall hold office by the same tenure and remuneration and on the same terms and conditions as to pension, gratuity and other matters as he would have held under the Board of Trustees or any other body, in whatever capacity, if this Ordinance had not been promulgated and shall continue to do so, unless and until his employment in the Foundation is terminated or until his tenure, remuneration and other terms and conditions are duly altered by the Foundation:

Provided that the tenure, remuneration and other terms and conditions of service of any such officer or employee shall not be altered to his disadvantage without the previous approval of the Central Government.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

21. For the purpose of enabling the Foundation to discharge its functions efficiently under this Ordinance, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Foundation in each financial year, such sums of money, on such terms and conditions as that Government may determine, by way of grant, loan or otherwise.

22. (1) The Foundation shall have its own Fund; and all sums which may, from time to time, be paid to it by the Central Government and all the receipts of the Foundation (including any sum which the State Government or any other authority or person may pay to the Foundation) shall be credited to the Fund and all payments by the Foundation shall be made therefrom.

(2) All monies belonging to the Fund shall be deposited in such banks or invested in such manner as may, subject to the approval of the Central Government, be decided by the Governing Board.
(3) The Foundation may spend such sums as it may think fit for performing its functions under this Ordinance, and such sums shall be treated as expenditure payable out of the Fund of the Foundation.

23. The Foundation shall prepare, in such form and at such time each year, as may be prescribed, the budget in respect of the financial year next ensuing showing the estimated receipts and expenditure, and copies thereof shall be forwarded to the Central Government.

24. (1) The Foundation shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be approved by the Comptroller and Auditor-General of India.

(2) The accounts of the Foundation shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Foundation to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Foundation shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers to inspect the office of the Foundation.

(4) The accounts of the Foundation as certified by the Comptroller and Auditor-General of India or any person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

25. (1) The Foundation shall furnish to the Central Government at such time and in such form and in such manner, as may be prescribed, or at the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the objects of the Foundation, as the Central Government may, from time to time, direct.

(2) Without prejudice to the provisions of sub-section (1), the Foundation shall, as soon as possible after the end of each financial year, submit to the Central Government an annual report in such form and before such date as may be prescribed, giving a true and full account of its activities and programmes during the previous year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be, after it is received, before each House of Parliament.
CHAPTER V
MISCELLANEOUS

26. The Foundation shall not, except with the previous approval of the Central Government, shall or otherwise dispose of any property vested in the Foundation.

27. (1) The Central Government may, if it is satisfied that it is necessary so to do in the public interest, issue, for reasons to be recorded and communicated to the Foundation, such directions as it thinks fit.

(2) Without prejudice to the generality of the foregoing powers, such directions may include directions requiring the Foundation—

(c) to make or amend any regulation within such period as may be specified in the directions; and

(b) to give priority to the work undertaken or to be undertaken by the Foundation in such manner as the Central Government may think fit to specify in this behalf.

(3) Any direction issued under this section shall have effect notwithstanding anything contained in any law for the time being in force.

28. (1) The Central Government may, by notification and for reasons to be specified therein, dissolve the Foundation from such date and for such period as may be specified in the notification:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Foundation to make representation against the proposed dissolution.

(2) When the Foundation is dissolved under sub-section (1),—

(a) all members of the Governing Board, Academic Committee and the Finance Committee, notwithstanding that the terms of their office had not expired, shall, from the date of dissolution, vacate their offices as such Members;

(b) all powers and duties of the Governing Board, Academic Committee and the Finance Committee shall, during the period of dissolution, be exercised and performed by such person or persons as the Central Government may appoint in this behalf;

(c) all properties and assets vested in the Foundation shall, during the period of dissolution vest in the Central Government; and

(d) as soon as after the period of dissolution expires, the Foundation shall be reconstituted in accordance with the provisions of this Ordinance.

29. No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of the Central Government or any officer of the Foundation for anything which is done in good faith done or intended to be done under this Ordinance.
30. Every Member of the Governing Board, Academic Committee and
the Finance Committee and the Director of the Foundation shall be indemnified by the Foundation against all losses and expenses incurred by them in relation to the discharge of their duties, except such as are caused by their willful act or default.

31. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the allowances to the Members under sub-section (5) of section 12;

(b) the powers which the Governing Board shall exercise and the functions which it shall discharge under sub-section (2) of section 14;

(c) functions to be performed by the Finance Committee, under clause (iv) of section 18;

(d) the salary and allowances and other terms and conditions of service of the Director under sub-section (3) of section 19;

(e) the form and the manner in which the budget is to be approved by the Governing Board under section 23;

(f) the form and the manner in which, and the time at which, the returns, statements and the annual report shall be prepared under section 25;

(g) any other matter which has to be, or may be, prescribed.

32. (1) The Foundation may make regulations, not inconsistent with this Ordinance and the rules made thereunder, for enabling it to discharge its functions under this Ordinance.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:

(a) the management of the properties and funds, affairs and works of the Foundation;

(b) the procedure in regard to transaction of business of the Governing Board and the Academic Committee (including quorum at their meetings) and the transaction of business of the Finance Committee under sub-section (3) of section 13, sub-section (3) of section 15 and sub-section (2) of section 17;

(c) creation or abolition of posts and the procedure for appointment of the professional, administrative and ministerial staff;

(d) the tenure of office and other terms and conditions of the members of the Academic Committee under sub-section (2) of section 18; and
(e) the maintenance of accounts, registers and other records of the Foundation.

(3) No regulation made by the Foundation shall have effect until it has been approved by the Central Government and published in the Official Gazette, and the Central Government, in approving the regulation may make changes therein which appear to it to be necessary.

33. Every rule or regulation made under this Ordinance shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session, immediately following the session or the successive sessions aforesaid, both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

34. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order, not inconsistent with the provisions of this Ordinance, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Ordinance.

(2) Every order made under this section shall be laid as soon as may be after it is made, before each House of Parliament.
THE FIRST SCHEDULE

[See clause (d) of section 3]

1. Kalakshetra College of Fine Arts.
2. Craft Education and Research Centre consisting of—
   (i) a Weaving Department, and
   (ii) a Kalamkari unit,
5. Besant Centenary Hostel.

THE SECOND SCHEDULE

(See section 4)

PART A

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All the buildings on the above lands, institutions, and all the assets whatsoever including Bank balance and cash of the Kalaksheera and Besant Centenary Trust/Hostel in the City of Madras.

SHANKER DAYAL SINGH

Y. L.
Secy. to the C.
CORRIGENDUM

In the Foreign Exchange Regulation (Amendment) Ordinance, 1993 (Ord. 9 of 1993) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 8th January, 1993 (Issue No. 12), at page 6, in line 9, after "inserted," insert "namely:-"

CORRIGENDUM

In the Uttar Pradesh Krishi Utpadan Maudi Samitis (Alpakkalik Vyavastha) Amendment Ordinance, 1993 (Ord. 11 of 1993) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 16th January, 1993 (Issue No. 14), at page 1, in the long title, in line 2, for "Adivinami", read "Adhiniyam".

CORRIGENDUM

In the Uttar Pradesh Co-operative Societies (Amendment) Ordinance, 1993 (Ord. 12 of 1993) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 16th January, 1993 (Issue No. 15), in the Promulgation paragraph, in line 2, for "Republic", read "Republic".

CORRIGENDUM

In the Uttar Pradesh Subordinate Services Selection Commission (Amendment) Ordinance, 1993 (Ord. 13 of 1993) as published in the Gazette of India, Extraordinary, Part II Section 1, dated the 16th January, 1993 (Issue No. 16), at page 1, in the short title, for "COMMISSION", read "COMMISSION".

CORRIGENDUM

In the Motor Vehicles (Uttar Pradesh Amendment) Ordinance, 1993 (Ord. 14 of 1993) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 16th January, 1993 (Issue No. 17), at page 2, in line 12, for "understaking", read "undertaking".
CORRIGENDA

In the Oil and Natural Gas Commission (Transfer of Undertaking and Repeal) Ordinance, 1993 (Ord. 28 of 1993) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 2nd July, 1993 (Issue No. 89),—

1. At page 1,—
   (i) in the long title, in line 1, for “he transfer”, read “the transfer”;
   (ii) in the preamble, in second paragraph, in line 3, for “th following”, read “the following”.

2. At page 2.—
   (i) in line 18, for “right”, read “rights”;
   (ii) in line 20, for “ownership”, read “ownership”;
   (iii) in line 37, for “enforced”, read “enforced”.

3. At page 3,—
   (i) in line 5, for “undc”, read “under”;
   (ii) in the marginal heading against section 7, for “Guran—”, read “Guaran—”;
   (iii) in line 39, for “oher”, read “other”.

4. At page 4.—
   (i) in line 8, for “shall”, read “shall”;
   (ii) in line 11, for “availability”, read “availability”;
   (iii) in line 34, for “Ces.”, read “Cen.”;
   (iv) in line 41, before “in session”, insert “it is”;
   (v) in the last line, for “the”, read “that”.

5. At page 4,—
   (i) against section 11, in marginal heading, in line 2, for “act”, read “Act 43 of 1959”;
   (ii) in line 4, for “section”, read “sections”.

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, NIZAMUDDIN ROAD, NEW DELHI
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 1st October, 1993/Bhadra 10, 1915 (Saka)

THE CHIEF ELECTION COMMISSIONER AND OTHER ELECTION COMMISSIONERS (CONDITIONS OF SERVICE) AMENDMENT ORDINANCE, 1993

No. 32 of 1993

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance to amend the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Act, 1991.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action:

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Amendment Ordinance, 1993.

(2) It shall come into force at once.

2. In the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Act, 1991 (hereinafter referred to as the principal Act), in the long title, for the words “and for matters”, the words “and to provide for the procedure for transaction of business by the Election Commission and for matters” shall be substituted.
3. In section 1 of the principal Act, for the words and brackets “the Chief Election Commissioner and other Election Commissioners (Conditions of Service)”, the words and brackets “the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business)” shall be substituted.

4. In section 2 of the principal Act, clause (b) shall be re-numbered as clause (c) and before clause (c) as so re-numbered, the following clause shall be inserted, namely:

“(b) “Election Commission” means the Election Commission referred to in article 324 of the Constitution;”

5. In section 3 of the principal Act,—

(a) in sub-section (1),—

(i) the brackets and figure “(1)” shall be omitted;

(ii) after the words “Chief Election Commissioner”, the words “and other Election Commissioners” shall be inserted;

(b) in sub-section (2), the brackets, figure and words “(2) There shall be paid to an Election Commissioner a salary which is equal to the salary of a Judge of a High Court;” shall be omitted.

6. In section 4 of the principal Act, for the first proviso, the following proviso shall be substituted, namely:

“Provided that where the Chief Election Commissioner or an Election Commissioner attains the age of sixty-five years before the expiry of the said term of six years, he shall vacate his office on the date on which he attains the said age;”.

7. In section 6 of the principal Act,—

(a) in sub-section (2),—

(i) after the words “Chief Election Commissioner”, the words “or an Election Commissioner” shall be inserted;

(ii) for the word, brackets and figure “sub-section (4)”, the word, brackets and figure “sub-section (3)” shall be substituted;

(b) sub-section (3) shall be omitted;

(c) sub-section (4) shall be re-numbered as sub-section (3) and in sub-section (3) as so re-numbered, in clause (b), the words “or as the case may be, sixty-two years,” shall be omitted.

8. In section 8 of the principal Act, for the portion beginning with the words “for the time being, applicable to”, and ending with words “apply to an Election Commissioner”, the following shall be substituted, namely:

“for the time being, applicable to a Judge of the Supreme Court under Chapter IV of the Supreme Court Judges (Conditions of Service) Act, 1958 and the rules made thereunder, shall, so far as may be, apply to the Chief Election Commissioner and other Election Commissioners.”
9. After section 8 of the principal Act, the following Chapter shall be inserted, namely:

“CHAPTER III

TRANSACTION OF BUSINESS OF ELECTION COMMISSION

9. The business of the Election Commission shall be transacted in accordance with the provisions of this Act.

10. (1) The Election Commission may, by unanimous decision, regulate the procedure for transaction of its business as also allocation of its business amongst the Chief Election Commissioner and other Election Commissioners.

(2) Save as provided in sub-section (1), all business of the Election Commission shall, as far as possible, be transacted unanimously.

(3) Subject to the provisions of sub-section (2), if the Chief Election Commissioner and other Election Commissioners differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.”

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
No. 177]
NEW DELHI, FRIDAY, OCTOBER 15, 1993/AVINSA 23, 1915

Separate paging is given to this Part in order that it may be filed
as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 15th October, 1993/Avina 23, 1915 (Sahao)

THE STATE BANK OF INDIA (AMENDMENT)
ORDINANCE, 1993.

No. 33 of 1993

Promulgated by the President in the Forty-fourth Year of the
Republic of India.

An Ordinance further to amend the State Bank of India Act, 1955.

Whereas Parliament is not in session and the President is satisfied
that circumstances exist which render it necessary for him to take
immediate action;

Now, therefore, in exercise of the powers conferred by clause (1)
of article 123 of the Constitution, the President is pleased to promulgate
the following Ordinance:

1. (1) This Ordinance may be called the State Bank of India
(Assembly) Ordinance, 1993.

(2) It shall come into force at once.

2. In section 4 of the State Bank of India Act, 1955 (hereinafter
referred to as the principal Act),—

(i) for the words "twenty lakhs", the words "two crores" shall
be substituted;

(ii) for the words "one hundred rupees" at both the places
where they occur, the words "ten rupees" shall be substituted.
3. For section 11 of the principal Act, the following section shall be substituted, namely:—

"11. No shareholder, other than the Reserve Bank, shall be entitled to exercise voting rights in respect of any shares held by him in excess of ten per cent. of the issued capital:

Provided that such shareholder shall be entitled to exercise voting rights at such higher percentage as the Central Government may, after consultation with the Reserve Bank, specify."

4. In section 12 of the principal Act, for the words and figures "Banking Companies Act, 1949", the words and figures "Banking Regulation Act, 1949" shall be substituted.

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

"13. (1) The State Bank shall keep at its Central Office, a register in one or more books of the shareholders, and shall enter therein the following particulars so far as they may be available:—

(i) the names, addresses and occupations of any of the shareholders and a statement of the shares held by each shareholder, distinguishing each share by its denoting number;

(ii) the date on which each person is so entered as a shareholder;

(iii) the date on which any person ceases to be a shareholder; and

(iv) such other particulars as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for the State Bank to keep the register of shareholders in computer floppies or diskettes subject to such safeguards as may be prescribed.

(3) Notwithstanding anything contained in the Indian Evidence Act, 1872, a copy, or an extract from, the register of shareholders, certified to be a true copy under the hand of an officer of the State Bank authorised in this behalf, shall, in all legal proceedings, be admissible in evidence."

6. Section 14 of the principal Act shall be omitted.

7. For section 15 of the principal Act, the following section shall be substituted, namely:—

"15. No notice of any trust, express, implied or constructive, shall be entered on the register of shareholders or be receivable by the State Bank."
8. In section 19 of the principal Act,—
   (i) in the opening portion, the brackets and figure "(1)" shall be omitted;
   (ii) in clause (c), for the words "principal register", the words "register of shareholders" shall be substituted.

9. In section 20 of the principal Act,—
   (a) in sub-section (3), the words, brackets and figure "of sub-section (1)" shall be omitted;
   (b) in sub-section (3A), for the words, brackets, figures and letter "of sub-section (1) of section 19 or nominated under clause (d) of that sub-section", the words, brackets, figures and letter "of section 19 or nominated under clause (d) of that section" shall be substituted;
   (c) in sub-section (4), for the words, brackets, letters and figures "of sub-section (1) of section 19 or nominated under clause (d) or clause (e) or clause (f) of that sub-section", the words, brackets, letters and figures "of section 19 or nominated under clause (d) or clause (e) or clause (f) of that section" shall be substituted.

10. In section 21 of the principal Act,—
   (a) in sub-section (1),—
   (i) for clause (b), the following clause shall be substituted, namely:—
   "(b) all such directors elected or nominated to the Central Board under clause (c) or clause (d) of section 19 as are ordinarily resident in the area falling within the jurisdiction of the local head office;";
   (ii) clause (d) shall be omitted;
   (b) for sub-section (2), the following sub-section shall be substituted, namely:—
   "(2) Where as a result of the establishment of any local head office (hereinafter referred to as the new local head office) for any area which is already falling within the jurisdiction of another local head office (hereinafter referred to as the existing local head office) a Local Board (hereinafter referred to as the new Local Board) is constituted for the new local head office, any person who is, at the time of such constitution, holding office as a member of a Local Board (hereinafter referred to as the existing Local Board) for an existing local head office under clause (e) of sub-section (1) and is ordinarily resident in the area falling within the jurisdiction of the new local head office, shall cease to hold office as member of the existing Local Board and shall become a member of the new Local Board and shall on becoming such member be deemed to have been nominated to the new Local Board and shall hold office as such member for the unexpired portion of his term of office as a member of the existing Local Board.";
(c) sub-section (4) shall be omitted;

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

"(5) The Governor of the Reserve Bank shall, in consultation with the chairman, appoint—

(a) a member of a Local Board nominated under clause (c) of sub-section (1) to be the president thereof, and

(b) a member of a Local Board holding office under clause (b) or nominated under clause (c) of that sub-section to be the vice-president thereof."

11. In section 21A of the principal Act, sub-section (2) shall be omitted.

12. In section 21B of the principal Act, for the words "served by the branch register", the words "falling within the jurisdiction" shall be substituted.

13. In section 22 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (dc), in the opening portion, the words, brackets and figure "of sub-section (1)" shall be omitted;

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

"(k) in the case of an elected director, he is not registered as a holder in his own right of unencumbered shares in the State Bank of a nominal value of at least five thousand rupees:

Provided that in the case of a director appointed under clause (ga) or clause (gb) of section 19, the disqualification mentioned in clause (d) shall not operate."

(b) in sub-section (4), in clause (e), for the words and figures "Banking Companies Act, 1949", the words and figures "Banking Regulation Act, 1949" shall be substituted.

14. In section 24 of the principal Act,—

(a) in sub-section (3), the words, brackets and figure "of sub-section (1)" shall be omitted;

(b) in sub-section (4), the words, brackets and figure "of sub-section (1)" shall be omitted;

(c) sub-section (5) shall be omitted.

15. In section 25 of the principal Act,—

(a) in sub-section (2), in the portion beginning with the words "clause (eb) of sub-section (1)" and ending with the words "as the case may be," the following shall be substituted, namely:
"clause (cb) of section 19 or of a member of a Local Board other than the chief general manager, the vacancy shall be filled—

(a) in the case of an elected director, by election; and

(b) in the case of a director nominated under clause (d) of section 19 or a member of a Local Board nominated under clause (c) of sub-section (1) of section 21, by nomination in consultation with the Reserve Bank:

Provided that where the duration of the vacancy in the office of an elected director is likely to be less than six months, the vacancy may be filled by the remaining directors by co-opting a person not disqualified under section 22;"

(b) in sub-section (4), the words, brackets and figures, "of sub-section (1)" shall be omitted.

16. In section 31 of the principal Act, in the proviso to sub-section (3), in clause (iii), the words, brackets and figure "of sub-section (1)" shall be omitted.

17. In section 35 of the principal Act, in sub-section (13), in clause (a), for the words and figures "Banking Companies Act, 1949" the words and figures "Banking Regulation Act, 1949" shall be substituted.

18. In section 36 of the principal Act, in sub-section (4), for the words and figures "Indian Income-tax Act, 1922", the words and figures "Income-tax Act, 1961" shall be substituted.

19. In section 49 of the principal Act, in sub-section (2), in clause (c), the words, brackets and figure "of sub-section (1)" shall be omitted.

20. In section 50 of the principal Act, in sub-section (2),—

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

"(b) the maintenance of register of shareholders, and the particulars to be entered in such register, in addition to those specified in section 13, the safeguards to be observed in the maintenance of register of shareholders on computer floppy or diskettes, the inspection and closure of the register of shareholders and all other matters connected therewith;"

(ii) in clause (c), for the words "served by the different branch register", the words "falling within the jurisdiction of each local head office" shall be substituted;

(iii) after clause (c), the following clause shall be inserted, namely:

"(ca) the determination of areas falling within the jurisdiction of each local head office;"

(iv) in clause (j), the words "on branch registers" shall be omitted.

21. (1) As soon as may be after the commencement of the State Bank of India (Amendment) Ordinance, 1983 all branch registers kept by the State Bank at its local head offices, immediately before such commencement, shall be closed and transferred to the Central Office.
(2) All applications or matters relating to the shares in the branch registers referred to in sub-section (1) pending at the local head offices immediately before the commencement of the State Bank of India (Amendment) Ordinance, 1993 shall be transferred to the Central Office and dealt with, or disposed of, as if such applications or matters were made to, or pending with, the Central Office.

(3) Every shareholder of the State Bank holding shares in the denomination of one hundred rupees immediately before the commencement of the State Bank of India (Amendment) Ordinance, 1993 shall be entitled to have the share certificates held by him replaced by share certificates of shares of equivalent value in the denomination of ten rupees in accordance with the procedure specified by the State Bank in this behalf.

(22.) For section 13 of the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988, the following section shall be substituted, namely:


Amendment of section 21A.

"13. In section 21A of the State Bank Act—

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

"(1) Subject to the provisions contained in this section and in sub-section (2) of section 21, a member of a Local Board nominated under clause (c) of sub-section (1) of section 21 shall hold office for such term, not exceeding three years, as the Central Government may specify in this behalf and thereafter until his successor has been duly nominated and shall be eligible for renomination;

Provided that no such director shall hold office continuously for a period exceeding six years."

(b) after sub-section (4), the following sub-section shall be inserted, namely:

"(5) A member of a Local Board nominated under clause (c) of sub-section (1) of section 21 shall hold office during the pleasure of the Central Government."

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 27th October, 1993/Kartika 5, 1915 (Saka)

THE MERCHANT SHIPPING (AMENDMENT) ORDINANCE, 1993

No. 34 of 1993

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance further to amend the Merchant Shipping Act, 1958.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action:

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Merchant Shipping (Amendment) Ordinance, 1993.

(2) It shall come into force at once.

2. In section 21 of the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), for clauses (b) and (c), the following clauses shall be substituted, namely:

"(b) a company or a body established by or under any Central or State Act which has its principal place of business in India; or
3. In section 42 of the principal Act,—

(i) in sub-section (1), after the words "interest therein", the words "at any time during which the security of India or any part of the territory thereof is threatened by war or external aggression" shall be inserted;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) No transfer or acquisition of any Indian ship shall be valid unless—

(a) all wages and other amounts due to seamen in connection with their employment on that ship have been paid in accordance with the provisions of this Act;

(b) the owner of the ship has given notice of such transfer or acquisition of the ship to the Director General."

4. In section 45 of the principal Act, in sub-section (2), for the words "company or any co-operative society", the words "company or body or co-operative society" shall be substituted.

5. For section 51 of the principal Act, the following section shall be substituted, namely:—

"52. (1) Where there is only one registered mortgagee of a ship or share, he shall be entitled to recover the amount due under the mortgage by selling the mortgaged ship or share without approaching the High Court;

Provided that nothing contained in this sub-section shall prevent the mortgagee from recovering the amount so due in the High Court as provided in sub-section (2).

(2) Where there are two or more registered mortgagees of a ship or share they shall be entitled to recover the amount due under the mortgage in the High Court, and when passing a decree or thereafter the High Court may direct that the mortgaged ship or share be sold in execution of the decree.

(3) Every registered mortgagee of a ship or share who intends to recover the amount due under the mortgage by selling the mortgaged ship or share under sub-section (1) shall give an advance notice of fifteen days relating to such sale to the registrar of the ship's port of registry."
(4) The notice under sub-section (3) shall be accompanied with the proof of payment of the wages and other amounts under clause (a) of sub-section (2A) of section 42."

6. Section 412 of the principal Act shall be omitted.

7. In section 414 of the principal Act, in sub-section (2), clauses (b) and (c) shall be omitted.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
The Gazette of India

EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 14th January, 1994/Pausa 24, 1915 (Saka)

THE COFFEE (AMENDMENT) ORDINANCE, 1994

No. 1 of 1994

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance further to amend the Coffee Act, 1942.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Coffee (Amendment) Ordinance, 1994.

(2) It shall come into force at once.

2. In section 3 of the Coffee Act, 1942 (hereinafter referred to as the principal Act),—

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

"(c) "Collector" means a Collector of Customs as defined in clause (8) of section 2 of the Customs Act, 1962;"
(b) for clause (h), the following clause shall be substituted, namely:—

'(h) “free sale quota” means that portion, stated in terms of bulk or weight, of the whole of the coffee produced by the estate in the year, which a registered estate is permitted under this Act to sell';

3. Section 12 of the principal Act shall be omitted.

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

"13. (1) The proceeds of the duty of customs levied under this Act (all of which shall form part of the Consolidated Fund of India), reduced by the cost of collection as determined by the Central Government, shall, if Parliament by appropriation made by law in this behalf so provides, be paid to the Board for being utilised for the purposes of this Act.

(2) The provisions of the Customs Act, 1962, and the rules and regulations made thereunder, shall, as far as may be, apply in relation to,

(a) the refund of the duty of customs where coffee is exported and subsequently imported into India; and

(b) the export, without payment of the duty of customs, of coffee which is subsequently to be imported into India."

5. For section 17 of the principal Act, the following section shall be substituted, namely:

"17. No registered owner shall sell or contract to sell coffee from any registered estate if by such sale the free sale quota allotted to that estate is exceeded nor shall a registered owner sell or contract to sell any coffee produced on his estate in any year for which no free sale quota is allotted to the estate.".

6. In section 20 of the principal Act, for the words and figures "Sea Customs Act, 1878, shall have effect as if the provision made by this section had been made by notification issued under section 19", the words and figures "Customs Act, 1962, shall have effect as if the provision made by this section had been made by notification issued under section 11" shall be substituted.
For section 22 of the principal Act, the following section shall be substituted, namely:—

"22. (1) Unless with the previous sanction of the Central Government the Board decides that no free sale quotas shall be allotted, the Board shall, as soon as may be, allot to each registered estate a free sale quota for the year.

(2) The free sale quota shall be a fixed percentage, common to all registered estates, not exceeding fifty per cent. of the probable total production of the estate in the year as estimated by the Board:

Provided that the Board may, with the previous sanction of the Central Government, allot such quota at a percentage higher than fifty per cent. of the said probable total production.

(3) The Board may at any time vary the free sale quota by varying the fixed percentage common to all registered estates, or may express the whole or any part of the free sale quota of an estate in terms of bulk instead of in terms of weight."

8. In section 23 of the principal Act, in sub-section (2), for the words "internal sale quota", at both the places where they occur, the words "free sale quota" shall be substituted.

9. In section 24 of the principal Act, for the words "internal sale quota", the words "free sale quota" shall be substituted.

10. In section 25 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "internal sale quota", the words "free sale quota" shall be substituted;

(ii) for the words "internal sale quotas", at both the places where they occur, the words "free sale quotas" shall be substituted;

(b) in sub-section (2), for the words "in words "free sale quota" shall be substituted.

11. In section 29 of the principal Act, in sub

(i) for the words "internal sale quota", quota" shall be substituted;

(ii) for the words "for internal sale", shall be substituted;

(iii) for the words "internal sale quota" shall be substituted.
12. In section 32 of the principal Act, in sub-section (2), for the words, brackets and figures "Subject to the provisions of sub-section (f) of section 13, the pool fund", the words "The pool fund" shall be substituted.

13. In section 40 of the principal Act, in sub-section (1), for the words "a Magistrate of the first class", the words "a Metropolitan Magistrate or a Judicial Magistrate of the first class" shall be substituted.

14. In section 48 of the principal Act, in sub-section (2), in clause (xviii), for the words "internal sale quota", the words "free sale quota" shall be substituted.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 13]  
New Delhi, Tuesday, January 25, 1994/Magh 5, 1915

THE MINES AND MINERALS (REGULATION AND DEVELOPMENT) AMENDMENT ORDINANCE, 1994

No. 2 of 1994

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance further to amend the Mines and Minerals (Regulation and Development) Act, 1957.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Mines and Minerals (Regulation and Development) Amendment Ordinance, 1994.

(2) It shall come into force at once.

2. In the Mines and Minerals (Regulation and Development) Act, 1957 (hereinafter referred to as the principal Act), in section 4A—

(a) in sub-section (2), the words "after consultation with the Central Government," shall be omitted;

(b) in sub-section (8), for the words "one year" wherever they occur, the words "two years" shall be substituted.
3. In section 5 of the principal Act,—

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

"(1) A State Government shall not grant a prospecting licence or mining lease to any person unless such person,—

(a) is an Indian national, or a company as defined in sub-section (1) of section 3 of the Companies Act, 1956; and

(b) satisfies such conditions as may be prescribed:

Provided that in respect of any mineral specified in the First Schedule no prospecting licence or mining lease shall be granted except with the previous approval of the Central Government.

Explanation.—For the purposes of this sub-section a person shall be deemed to be an Indian national,—

(a) in the case of a firm or other association of individuals, only if all the members of the firm or members of the association are citizens of India; and

(b) in the case of an individual, only if he is a citizen of India;";

(ii) in sub-section (2), in clause (a), the proviso shall be omitted.

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

"(1) The period for which a prospecting licence may be granted shall not exceed three years;

(2) A prospecting licence shall, if the State Government is satisfied that a longer period is required to enable the licensee to complete prospecting operations be renewed for such period or periods as that Government may specify:

Provided that the total period for which a prospecting licence is granted does not exceed five years:

Provided further that no prospecting licence granted in respect of a mineral included in the First Schedule shall be renewed except with the previous approval of the Central Government."

5. In section 8 of the principal Act,—

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

"(1) The maximum period for which a mining lease may be granted shall not exceed thirty years:

Provided that the minimum period for which any such mining lease may be granted shall not be less than twenty years."
(b) in sub-section (2), for the words "two periods each not exceeding ten years", the words "a period not exceeding twenty years" shall be substituted;

(c) in sub-section (3), for the words "in each case the period for which the mining lease was originally granted", the words "twenty years in each case" shall be substituted.

6. In section 16 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a), for the portion beginning with the words "if in force at such commencement" and ending with the words "six months from such commencement", the following shall be substituted, namely:—

"if in force at the date of commencement of the Mines and Minerals (Regulation and Development) Amendment Ordinance, 1994 shall be brought in conformity with the provisions of this Act and the rules made thereunder within two years from the date of the commencement of the Mines and Minerals (Regulation and Development) Amendment Ordinance, 1994";

(ii) in clause (b) for the words, brackets and figures "six months from the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972", the words, brackets and figures "two years from the commencement of the Mines and Minerals (Regulation and Development) Amendment Ordinance, 1994" shall be substituted;

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

"(1A) Where any action is taken under clause (a) or clause (b) of sub-section (1) to bring the period of any lease in conformity with the provisions of this Act and the rules made thereunder, then, notwithstanding anything contained in section 8, the period of such lease shall continue to operate for a period of two years from the date of bringing such lease in conformity with the provisions of this Act.";

7. In section 17A of the principal Act,—

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

"(1A) The Central Government may, in consultation with the State Government, reserve any area not already held under any prospecting licence or mining lease, for undertaking prospecting or mining operations through a Government company or corporation owned or controlled by it, and where it proposes to do so, it shall, by notification in the Official Gazette, specify the boundaries of such area and the mineral or minerals in respect of which such area will be reserved;";

(b) in sub-section (2), the words "or by the Central Government" shall be omitted;
(c) in sub-section (3), for the words, brackets and figure "Where in exercise of the powers conferred by sub-section (2) the State Government", the words, brackets and figure "Where in exercise of the powers conferred by sub-section (1A) or sub-section (2) the Central Government or the State Government, as the case may be," shall be substituted.

8. In section 19 of the principal Act, in the Explanation, the words "in any State" shall be omitted.

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

"23B. If any gazetted officer of the Central or a State Government authorised by the Central Government in this behalf by general or special order has reason to believe that any mineral has been raised in contravention of the provisions of this Act or rules made thereunder or any document or thing in relation to such mineral is secreted in any place, he may search for such mineral, document or thing and the provisions of section 109 of the Code of Criminal Procedure, 1973 shall apply to every such search."

10. In section 28 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Every rule and every notification made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists one House, before that House."

11. In section 30 of the principal Act, the words "with respect to any mineral other than a minor mineral" shall be inserted at the end.

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

"THE FIRST SCHEDULE

[See sections 4(3), 5(1), 7(2) and 8(2)]

SPECIFIED MINERALS

PART A. Hydro Carbons|Energy Minerals

1. Coal and Lignite.

PART B. Atomic Minerals

1. Beryllium and other beryllium-bearing minerals.
2. Lithium-bearing minerals.
3. Minerals of the "rare earths" group containing Uranium and Thorium.
5. Phosphorites and other phosphatic ores containing Uranium.
6. Pitchblende and other Uranium ores.
7. Rutile.
8. Tantalum-bearing minerals.
9. Uraniferous allanite, monazite and other thorium minerals.
10. Uranium-bearing tailings left over from ores after extraction of copper and gold, ilmenite and other titanium ores.
11. Zinc.

PART C. Metallic and Non-Metallic Minerals
1. Asbestos.
2. Bauxite.
3. Chromite Ore.
4. Copper Ore.
5. Gold.
7. Lead.
8. Limestone, except when it is used in kilns for the manufacture of lime as building material.
11. Zinc.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO TRANSACTIONS IN SECURITIES) AMENDMENT ORDINANCE, 1994

No. 3 of 1994

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance to amend the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1994.

(2) It shall come into force at once.
2. In section 5 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 (hereinafter referred to as the principal Act), after sub-section (2), the following sub-section shall be inserted, namely:

“(3) When the office of the Judge of the Special Court is vacant by reason of absence or leave, the duties of the office shall be performed by such Judge of the High Court within the local limits of whose jurisdiction the Special Court is situated as the Chief Justice of that High Court may, with the concurrence of the Chief Justice of India, nominate for the purpose and the Judge so appointed shall have all the jurisdiction and powers of the Judge of the Special Court including the powers to pass final orders.”

3. After section 9 of the principal Act, the following section shall be inserted, namely:

“9A. (1) On and from the commencement of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1994, the Special Court shall exercise all such jurisdiction, powers and authority as were exercisable, immediately before such commencement, by any civil court in relation to any matter or claim—

(a) relating to any property standing attached under sub-section (3) of section 3;

(b) arising out of transactions in securities entered into after the 1st day of April, 1991, and on or before the 6th day of June, 1992, in which a person notified under sub-section (2) of section 3 is involved as a party, broker, intermediary or in any other manner.

(2) Every suit, claim or other legal proceeding (other than an appeal) pending before any court immediately before the commencement of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1994, being a suit, claim or proceeding, the cause of action whereon it is based is such that it would have been, if it had arisen after such commencement, within the jurisdiction of the Special Court under sub-section (1), shall stand transferred on such commencement to the Special Court and the Special Court may, on receipt of the records of such suit, claim or legal proceeding, proceed to deal with it, so far as may be, in the same manner as a suit, claim or legal proceeding from the stage which was reached before such transfer or from any earlier stage or de novo as the Special Court may deem fit.

(3) On and from the commencement of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1994, no court other than the Special Court shall have, or be entitled to exercise, any jurisdiction, power or authority in relation to any matter or claim referred to in sub-section (1).

(4) While dealing with cases relating to any matter or claim under this section, the Special Court shall not be bound by the procedure laid down by the Code of Civil Procedure, 1963, but shall be
guided by the principles of natural justice, and subject to the other provisions of this Act and of any rules, the Special Court shall have the power to regulate its own procedure.

(5) Without prejudice to the other powers conferred under this Act, the Special Court shall have, for the purposes of discharging its functions under this section, the same powers as are vested in a civil court under the Code of Civil Procedure, 1808, while trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office:

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

(g) dismissing a case for default or deciding it ex parte;

(h) setting aside any order of dismissal of any case for default or any order passed by it ex parte; and

(i) any other matter which may be prescribed by the Central Government under sub-section (1) of section 14.

9B. (1) The Special Court shall have the jurisdiction and powers of a Court conferred under the Arbitration Act, 1940 to decide any question forming subject matter of a reference relating to any matter or claim mentioned in sub-section (1) of section 9A.

(2) Every suit or other proceeding (other than an appeal) in relation to any matter or claim referred to in sub-section (1) of section 9A pending before any Court and governed by the Arbitration Act, 1940, immediately before the date of commencement of the Special Court (Trial of Offences relating to Transactions in Securities) Amendment Ordinance, 1994 shall stand transferred on that date to the Special Court.

Explanation.—For the purposes of this section, the expressions "Court" and "reference" shall have respectively the same meanings as defined under clauses (c) and (e) of section 2 of the Act, 1940.

4. In section 18 of the principal Acts—

(a) in sub-section (1), after the word "Code", the words and figures "the Code of Civil Procedure, 1908 or the Arbitration Act, 1940" shall be inserted;

(b) in subsections (1) and (2), after the word "judgment", the word "decree" shall be inserted.
5. After section 11 of the principal Act, the following section shall be inserted, namely:

"11A. The Special Court shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971, shall have effect subject to the modifications that—

(a) the references therein to a High Court shall be construed as including a reference to such Special Court;

(b) the references to the Advocate-General in section 15 of the said Act, shall be construed, in relation to the Special Court, as a reference to the Attorney-General or the Solicitor-General or Additional Solicitor-General."

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 29th January, 1994/Magha 9, 1915 (Saka)

THE AIR CORPORATIONS (TRANSFER OF UNDERTAKINGS AND REPEAL) ORDINANCE, 1994

No. 4 of 1994

Promulgated by the President in the Forty-fifth Year of the Republic of India.

An ordinance to provide for the transfer and vesting of the undertakings of Indian Air Lines and Air India respectively to and in the companies formed and registered as Indian Air Lines Limited and Air India Limited and for matters connected therewith or incidental thereto and also to repeal the Air Corporations Act, 1953.

WHEREAS the Air Corporations (Transfer of Undertakings and Repeal) Bill, 1992 has been introduced in Parliament but has not yet been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the Bill;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Air Corporations (Transfer of Undertakings and Repeal) Ordinance, 1994.

(2) It shall come into force at once.
THE AIR CORPORATIONS (TRANSFER OF UDER-
TAKINGS AND REPEAL) ORDINANCE, 1994

No. 4 of 1994

Promulgated by the President in the Forty-fifth Year of the
Republic of India.

An ordinance to provide for the transfer and vesting of the undertakings of Indian Air Lines and Air India respectively to and in the companies formed and registered as Indian Air Lines Limited and Air India Limited and for matters connected therewith or incidental thereto and also to repeal the Air Corporations Act, 1953.

Whereas the Air Corporations (Transfer of Undertakings and Repeal) Bill, 1992 has been introduced in Parliament but has not yet been passed;

And whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the Bill;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Air Corporations (Transfer of Undertakings and Repeal) Ordinance, 1994.

(2) It shall come into force at once.
2. In this Ordinance, unless the context otherwise requires,—

(a) "appointed day" means such date as the Central Government may, by notification in the Official Gazette, appoint under section 3;

(b) "company" means "Indian Airlines Limited" or "Air India Limited" formed and registered under the Companies Act, 1956;

(c) "corporations" means "Indian Airlines" and "Air India" established under section 3 of the Air Corporations Act, 1933 (hereinafter referred to as the principal Act), and "corporation" means either of the corporations;

3. On such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be transferred to, and vest in,—

(a) Indian Airlines Limited, the undertaking of Indian Airlines;

(b) Air India Limited, the undertaking of Air India.

4. (1) The undertaking of a corporation which is transferred to, and which vests in a company under section 3 shall be deemed to include all assets, rights, powers, authorities and privileges and all properties, movable and immovable, real or personal, corporeal or incorporeal, in possession, reservation, present or contingent, of whatever nature and wheresoever situate, including lands, works, workshops, aircrafts, cash balances, capital, reserves, reserve funds, investments, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of that corporation in relation to its undertaking, whether within or outside India, all books of accounts and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of that corporation in relation to its undertaking.

(2) All contracts and working arrangements subsisting immediately before the appointed day and affecting a corporation shall, in so far as they relate to the undertaking of that corporation, cease to have effect or to be enforceable against that corporation and shall be of as full force and effect against or in favour of the company in which the undertaking has vested by virtue of this Ordinance and enforceable as fully and effectually as if, instead of the corporation, the company had been named therein or had been a party thereto.

(3) Any proceeding or cause of action pending or existing immediately before the appointed day by or against a corporation in relation to its undertaking may, as from that day, be continued and enforced by or against the company in which it has vested by virtue of this Ordinance, as if it might have been enforced by or against that corporation if this Ordinance had not been passed, and shall cease to be enforceable by or against that corporation.

Note: 1-3-1994: vide Notification No. S.O. 162 (E), dt. 18-2-94.
5. With effect from the appointed day, all licences, permits, quotas and exemptions granted to a corporation in connection with the affairs and business of that corporation under any law for the time being in force shall be deemed to have been granted to the company in which the undertaking of that corporation has vested.

6. (1) Where any exemption from, any assessment with respect to, any tax has been granted or made or any benefit by way of set off or carry forward, as the case may be, of any unabsorbed depreciation or investment allowance or other allowance or loss has been extended or is available to a corporation under the Income-tax Act, 1961, such exemption, assessment or benefit shall continue to have effect in relation to the company in which the undertaking of that corporation has vested.

(2) Where any payment made by a corporation is exempt from deduction of the tax at source under any provision of the Income-tax Act, 1961, the exemption from tax will continue to be available as if the provisions of the Act made applicable to the corporation were operative in relation to the company in which the undertaking of that corporation has been vested.

(3) The transfer and vesting of the undertaking or any part thereof in terms of section 3 shall not be construed as a transfer within the meaning of the Income-tax Act, 1961 for the purposes of capital gains.

7. Any guarantee given for or in favour of a corporation with respect to any loan or lease finance shall continue to be operative in relation to the company in which the undertaking of that corporation has vested by virtue of this Ordinance.

8. (1) Every officer or other employee of a corporation (except a Director of the Board, Chairman, Managing Director or any other person entitled to manage the whole or a substantial part of the business and affairs of the corporation) serving in its employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in a company by virtue of this Ordinance become, as from the appointed day an officer or other employee, as the case may be, of the company in which the undertaking has vested and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, passage, insurance, superannuation scheme, provident fund, other funds, retirement, pension, gratuity and other benefits as he would have held under that corporation if its undertaking had not vested in the company and shall continue to be so as an officer or other employee, as the case may be, of the company or until the expiry of a period of six months from the appointed day if such officer or other employee opts not to be the officer or other employee of the company, within such period.

(2) Where an officer or other employee of a corporation opts under sub-section (1) not to be in the employment of service of the company in which the undertaking of that corporation has vested, such officer or other employee shall be deemed to have resigned.

Licences, etc., to be deemed to have been granted to companies.

Tax exemption or benefit to continue to have effect.

Guarantee to be operative.

Provisions in respect of officers and other employees of corporations.
(f) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of a company to a company shall not entitle such officer or other employee to any compensation under the said Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(g) The officers and other employees who have retired before the appointed day from the service of a corporation and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the company in which the undertaking of that corporation has vested.

(h) The trusts of the Provident Fund or Pilots Group Insurance and Superannuation Scheme of the corporation and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the company as was being done hitherto in the corporation. Tax exemption granted to Provident Fund or Pilots Group Insurance and Superannuation Scheme would continue to be applied to the company.

(i) Notwithstanding anything contained in this Ordinance or in the Companies Act, 1956 or in any other law for the time being in force or in the regulations of a corporation, no Director of the Board, Chairman, Managing Director or any other person entitled to manage the which or a substantial part of the business and affairs of that corporation shall be entitled to any compensation against that corporation or against the company, as the case may be, for the loss of office or for the premature termination of any contract of management entered into by him with that corporation.

9. The Central Government may give to a company directions as to the exercise and performance by that company of its functions, and that company shall be bound to give effect to any such directions.

10. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Ordinance, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the coming into force of this Ordinance.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.
11. (1) On the appointed day, the Air Corporations Act, 1953 shall stand repealed.

(2) The corporation shall, with the repeal of the Air Corporations Act, 1953, cease to exist.

SHANKER DAYAL SHARMA,

President.

A. C. C. UNNI.

Additional Secretary to the Govt. of India.
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 31st January, 1994/Magh 11, 1915 (Saka)

THE BANKING REGULATION (AMENDMENT) ORDINANCE, 1994

No. 5 of 1994

Promulgated by the President in the Forty-fifth Year of the Republic of India.

Ordinance further to amend the Banking Regulation Act, 1949.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

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

(2) It shall come into force at once.
2. In section 10B of the Banking Regulation Act, 1949 (hereinafter referred to as the principle Act),—

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

"(f) 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) Ordinance, 1994, or which comes into existence thereafter shall have one of its directors, who may be appointed as chairman of its board of directors on a whole-time or a part-time basis, and where he is appointed on a whole-time basis, 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 board of directors who is appointed on a whole-time basis and every managing director” shall be substituted;

(c) in sub-section (f),—

(i) in the opening paragraph, for the words “Every chairman of the board of directors of a banking company”, the words “Every chairman who is appointed on a whole-time basis or 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 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” at both the places where they occur, the words “A chairman of 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 board of directors 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 appointed on a whole-time basis or a managing director" shall be substituted;

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

(j) in sub-sections (2) and (9), 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.

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.

4. In section 10C of the principal Act, for the words "A chairman", the words "A chairman of the board of directors appointed on a whole-time basis or a managing director" shall be substituted.

5. In section 10D of the principal Act, for the words "director or chairman", the words "director, the chairman of the board of directors appointed on a whole-time basis or managing director" shall be substituted.

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.

7. In section 18 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."

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."

9. In section 46A of the principal Act, for the words "Every chairman, director, auditor", the words "Every chairman appointed on a whole-time basis, managing director, director, auditor" shall be substituted.
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.".

SHANKER DAYAL SHARMA,
President.

A. C. C. UNNI,
Additional Secretary to the Govt. of India.
THE MANIPUR MUNICIPALITIES ORDINANCE, 1994

No. 6 of 1994

Promulgated by the President in the Forty-fifth Year of the
Republic of India.

An Ordinance to provide for the constitution and organisation of
municipalities in the Urban areas of Manipur and for matters
connected therewith and incidental thereto and also to repeal
the Manipur Municipalities Act, 1976.

WHEREAS by a proclamation issued on the 31st December, 1998 by the
President under article 358 of the Constitution, the powers of the Legis-
lature of the State of Manipur have been declared to be exercisable by or
under the authority of Parliament;

AND WHEREAS House of the People is not in session the President is
satisfied that circumstances exist which render it necessary for him to
take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1)
of article 128 of the Constitution, the President is pleased to promulgate
the following Ordinance:

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Manipur Municipalities
(2) It extends to the whole of the State of Manipur excepting any area to which the Manipur (Hill Areas) District Council Act, 1971 extends and which is included in a cantonnement under the Cantonment Act, 1924.

(3) It shall come into force at once.

2. In this Ordinance unless the context otherwise requires—

(1) "Adhyaksha" means an Adhyaksha of a Zilla Parishad elected under the provisions of the Manipur Panchayati Raj Act, 1994;

(2) "building" means a house, out-house, stable, latrine, urinal, shed, hut, wall (other than a boundary wall) or any other structure, whether of masonry, bricks, wood, mud, metal or other material but does not include any portable shelter;

(3) "by-law" means a by-law made under this Ordinance by notification;

(4) "Committee" means a Committee other than a Ward Committee constituted under this Ordinance;

(5) "compound" means land whether enclosed or not, which is the appurtenance of a building or the common appurtenance of several buildings;

(6) "conservancy" means the removal and disposal of sewage offensive matter and rubbish;

(7) "Corporation" means a Municipal Corporation;

(8) "Council" means a Municipal Council;

(9) "Councillor" means a member of a Municipal Council or Nagur Panchayat, as the case may be, elected or appointed under this Ordinance;

(10) "Deputy Commissioner" means the Deputy Commissioner of a district of Manipur having jurisdiction over the Municipality, or any other officer at any time appointed by the Government to perform, in any district or districts the functions of a Deputy Commissioner under this Ordinance;

(11) "Director" means the Director of Municipal Administration, Housing and Urban Development of the Government of Manipur or such other officer as may be appointed by the Government to exercise the functions of the Director of Municipal Administration, Housing and Urban Development of Manipur;

(12) "district" means a district in the State of Manipur;

(13) "District Magistrate" means the District Magistrate and includes the Additional District Magistrate or any such Magistrate as may be appointed in this behalf by the Government, having territorial jurisdiction over the Municipality;

(14) "Drain" includes a sewer, a house drain, a drain of any other description, a trench, a culvert, a ditch, a channel and any other device for carrying off sullage, sewage, offensive matter, pollute water, waste water, rain water or subroll water.
(15) "Election Commission" means the State Election Commission constituted under section 98 of the Manipur Panchayati Raj Act, 1994;

(16) "Executive Officer" means Executive Officer of a municipality appointed under this Ordinance;

(17) "financial year" means the year commencing on the 1st day of April of a year and ending on 31st day of March of the succeeding year;

(18) "Food" includes every article used for food or drink by man other than drugs or water, and any article which ordinarily enters into or used in the composition or preparation of human food and also includes confectionery, flavouring and colouring matter, spices and condiments;

(19) "Government" means the State Government of Manipur;

(20) "half-year" means a half-year commencing on the first day of April or the first day of October, or such other date as the State Government may by notification, appoint;

(21) "holding" means land held under one title or agreement and surrounded by one set of boundaries:

Provided that where two or more adjoining holdings form part and parcel of the site or premises of a dwelling-house, manufactory, warehouse or place of trade or business, such holdings shall be deemed to be one holding for the purposes of this Ordinance:

Provided further that where land has been let out to occupants in separate parcels paying rent separately, each such parcel shall be treated as a distinct holding in spite of such parcels of land being held under one title.

Explanation I.—Holdings separated by a road or other means of communication shall be deemed to be adjoining within the meaning of this proviso.

Explanation II.—Any plot of land having clear boundaries and lying entirely vacant, if fit for building purposes or if yielding any income, shall when not appurtenant to any agricultural purposes, be regarded as a "holding";

(22) "house" means any hut, shop, warehouse, workshop, masonry or framed;

(23) "house-gully" or "service passage" means a passage or strip of land constructed, set apart, or utilised, for the purpose of serving as or carrying a drain or affording access to a latrine, privy,
urinal, cess-pool or other receptacle of filthy or polluted matter by municipal employees or other persons employed in the cleansing thereof or in the removal of such matter therefrom, and includes the air-space above such passage or land;

(24) “hus” means any building, which is constructed principally of wood, bamboo, mud, leaves, grass or lashes and includes any temporary structure of whatever size or any small building of whatever material made;

(25) “infectious or contagious disease” means cholera, plague, small-pox, chicken-pox, kala-azar, tuberculosis, diphtheria and typhoid or enteric fever or such other dangerous disease as the Government may notify in this behalf;

(26) “inhabitant” used with reference to a local area means any person ordinarily residing or carrying on business or owning or occupying immovable property therein;

(27) “joint family” means a family of which the members live together, have a common mess and are descendants from a common ancestor and shall include wives or husbands, as the case may be, of its members, but shall exclude married daughters and their children;

(28) “land” includes benefits arising out of land, houses and things attached to the earth, or permanently fastened to anything attached to the earth and also land covered by water;

(29) “Legislative Assembly” means the Legislative Assembly of Manipur;

(30) “Local Authority” includes District Council, Municipal Council, Nagar Panchayat, Municipal Corporation and Panchayat;

(31) “lodging house” means a house in which visitors or other persons are lodged on hire for a night or more;

(32) “market” or “bazaar” means any place, by whatever name called, where persons assemble for the sale of meat, fish, fruit, vegetables, live stock or any other article of food or merchandise, declared and licensed by the municipality as a market;

(33) “municipal area” means the territorial area of a municipality as is notified by the Governor;

(34) “municipality” means the Nagar Panchayat or the Municipal Council, as the case may be, constituted under the provisions of this Ordinance;
(35) "municipal market" means a market belonging to or maintained by the municipality;

(36) "notification" means notification in the Official Gazette of Manipur;

(37) "nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense or sight, smelling or hearing or disturbance to rest or sleep or which is or may be, dangerous to life or injurious to health or property;

(38) "occupier" includes—

(a) any person who is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;

(b) an owner in occupation of or otherwise using his own land or building;

(c) a rent free tenant of any land or building;

(d) a licensee in occupation of any land or building; and

(e) any person who is liable to pay to the owner of land or building damages for the use and occupation of such land or building;

(39) "offensive matter" includes animal, carcasses, kitchen or stable refuse, dung, dirt, putrid, or putrefying substance and filth of any kind which is not included in sewage;

(40) "owner" includes—

(a) a person who for the time being is receiving or is entitled to receive, the rent of any land or building or of any part of any land or building whether on his own account or on account of himself and others or as an agent, trustee for any person or society or for any religious or charitable purpose, guardian or as a receiver or who would so receive such rent or be entitled to receive it if the land, building or part thereof were let to a tenant, and

(b) the head of a Government department in respect of properties under their respective control;

(41) "Panchayat" means an institution of self-government at the district or village level constituted under Manipur Panchayati Raj Act, 1994;
(42) "platform" means any structure which is placed on or covers or projects over, any public road or any open drain, sewer or aqueduct;

(43) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;

(44) "prescribed" means prescribed by rules made under this Ordinance;

(45) "private road" means any street, road, square, court, alley or passage which is not a public road and includes a pathway made by the owner or premises on his own land to secure access to, or the convenient use of, such premises;

(46) The expression "re-erect" when used with reference to building, includes—

(a) the reconstruction of a building after more than one-half of its cubical extent has been taken down or burnt down or has fallen down;

(b) the conversion of one or more huts or temporary structures into a Masonry or framed building;

(c) the conversion into place for human habitation of any building nor originally constructed for such habitation; and

(d) the extension of a building;

(47) "private slaughter house" means a slaughter house which is not a municipal slaughter house;

(48) "public place" means a space, not being private property which is open to the use or enjoyment of the public whether such space is vested in a municipality or not;

(49) "public road" means any street, road, square, court, alley, passage or pathway over which the public have a right of way whether a thoroughfare or not, and includes—

(a) the roadway over any public bridge or causeway;

(b) the footway attached to any such road, public bridge or causeway; and

(c) the drains attached to any such roads, public bridge or causeway, and the land, whether covered or not by any pavement, verandah or other structure, which lies on either side of the roadway up to the boundaries of the adjacent property whether that property is private property or Government property;

(50) "regulation" means a regulation made by the Municipal Council under this Ordinance by notification in the Official Gazette;
(51) "rubbish" means ashes, broken brick, mortar, broken glass, dust or refuse of any kind which is not filth;

(52) "rule" means a rule made under this Ordinance;

(53) "Scheduled Castes" means such castes, races or tribes or parts of groups within such castes, tribes as are specified to be Scheduled Castes, in relation to the State of Manipur under article 341 of the Constitution of India;

(54) "Scheduled Tribes" means such tribes or tribal communities or parts of groups within such tribes or tribal communities as are specified to be Scheduled Tribes in relation to the State of Manipur under article 342 of the Constitution of India;

(55) "sewage" means night-soil and other contents of privies, latrines, urinals, cesspools and drains, and includes polluted water from sink, bathrooms, stables, cattle-sheds and other like places and also discharges from manufactories of all kinds;

(56) "slaughter house" means any place ordinarily used for the slaughter of animals for the purpose of selling the flesh thereof for human consumption;

(57) "urban areas" means the areas in the State of Manipur which are not rural areas;

(58) "vehicle" includes bicycles, tricycles and automobile cars and every wheeled conveyance whether a carriage, cart, van, dray which is used or capable of being used on a public road;

(59) "ward" means a municipal ward constituted under section 18;

(60) "water works" includes all tanks, streams, cisterns, springs, pumps, wells, reservoirs, aqueducts, sluices mains, pipes, hydrants, stand pipes and conduits and all lands, buildings, machinery and things used for, or intended for the purpose of, supplying water;

(61) "Zilla Parishad" means a Zilla Parishad of a district constituted under the Manipur Panchayati Raj Act, 1994.

CHAPTER II

CONSTITUTION OF MUNICIPALITIES

3. (1) The Governor shall, by notification, constitute—

(a) a Nagar Panchayat for a transitional area, that is to say, an area in transition from a rural area to an urban area;

(b) a Municipal Council for a smaller urban area; and

(c) a Municipal Corporation for a larger urban area, in accordance with the provisions of this Ordinance:

Provided that a Municipality under this section may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed,
to be provided by an industrial establishment in that area and such other factors as it may deem fit, by notification, specify to be an industrial township.

Explanation.—In this section, “a transitional area”, “a smaller urban area” or “a larger urban area” means such areas as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as it may deem fit, specify by notification for the purposes of this Ordinance.

(2) Notwithstanding anything contained in sub-section (1), any local area, except in Scheduled Area, which was declared as a small town or a municipality under the Manipur Municipalities Act, 1976, before the commencement of this Ordinance, shall be deemed to have been declared as a transitional area or a smaller urban area, as the case may be, for the purpose of this Ordinance.

(3) Before issue of notification under sub-section (1) a draft of the notification is to be published indicating local limits of the area to be included or excluded from the municipality.

(4) Any person who is ordinarily resident of the local area in respect of which the draft notification has been published under sub-section (3) may, object to the proposal contained in such notification in writing to the Deputy Commissioner within forty-five days from the date of publication of the said draft notification.

(5) On receipt of the objection under sub-section (4) the Deputy Commissioner shall within forty-five days of the receipt of objection forward the same with his comments to the Government for its consideration.

4. (1) When a local area is excluded from a municipality by a notification under sub-section (1) of section 3, and is included in the other local authority the Government shall frame a scheme determining what portion of the balance of the municipal fund and all other property vested in that municipality, shall, on such exclusion, vest—

(i) when such area is included within the limits of any other local authority, in such authority; and

(ii) in any other case, in the Government and in what manner the liability of the municipality shall be apportioned between the municipality and such local authority as the Government, in the case may be, and on the publication of such a scheme in the Official Gazette, such property and liability shall vest and be apportioned accordingly;

Effect of exclusion of local area from Municipality.
Provided that before framing of any such scheme, the Government shall consult the municipality and where the area is included within the limits of any local authority, such authority also.

(2) All money due to the municipality, immediately before the date of such exclusion on account of tax, toll, fee, rate or otherwise may in respect of the areas so excluded be recovered by the municipality as if such area has not been excluded.

5. Every municipality shall cause to be erected and set up and maintain boundary marks defining the limits of the area subject to its authority as set out by the notification.

CHAPTER III

NAGAR PANCHAYAT

6. A Nagar Panchayat shall be a body corporate by its name, having a perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract, and shall sue and be sued in its name.

7. (1) Every Nagar Panchayat shall consist of such number of Councillors as may be fixed by the Government from time to time by notification.

(2) Save as otherwise provided in sub-section (3), all the seats in a Nagar Panchayat shall be filled by persons chosen by direct election from the territorial constituencies to be known as wards in the municipal area of Nagar Panchayat.

(3) The Government may appoint a person having special knowledge or experience in municipal administration to be a Councillor of the Nagar Panchayat:

Provided that such person shall not have the right to vote in the meetings of the Nagar Panchayat.
8. The provisions of sections 17, 19 and 20 of this Ordinance relating to Council shall also apply in case of Nagar Panchayat.

9. For every Nagar Panchayat there shall be a Chairperson and a Vice-Chairperson.

10. (1) Save as otherwise provided in the Ordinance, the Councilors at the first meeting of the Nagar Panchayat to be called at the instance of the Deputy Commissioner after a General Election shall elect one of them to be the Chairperson in accordance with the rules made in this behalf.

(2) An election under sub-section (1) shall take place—

(a) within twenty-one days from the date of notification of the result under section 22;

(b) in the case of vacancy in the office of the Chairperson on account of any reason other than the expiry of the term of office of the Chairperson, within twenty-one days from the date of the occurrence of the vacancy.

(3) The State Government shall appoint a person to preside over the meeting and for the purpose of the business mentioned in sub-section (1).

(4) The Councilors shall, either at the meeting referred to in sub-section (1) or at any subsequent meeting elect one among themselves, other than the Chairperson elected under sub-section (1), to be a Vice-Chairperson.

11. (1) The Chairperson may resign his office by writing under his hand addressed to the Executive Officer.

(2) The Vice-Chairperson or a Councillor may resign his office by writing under his hand addressed to the Chairperson, who shall forward it to the Executive Officer.

(3) The resignation under sub-section (1) or sub-section (2) shall take effect from the date on which it is accepted by the Government.
The Executive Officer shall forthwith intimate the fact of resignation received under sub-section (1) or sub-section (2) to the Nagar Panchayat and the State Government.

(5) On receipt of intimation under sub-section (4) the State Government shall notify the fact of the resignation and occurrence of vacancy therein.

12. The Chairperson or Vice-Chairperson or any other Councillor of a Nagar Panchayat may be granted by that Nagar Panchayat, such remuneration or such allowance as may be prescribed.

CHAPTER IV
MUNICIPAL COUNCILS

13. A Municipal Council shall be a body corporate by its name, having a perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract, and shall sue and be sued in its name.

14. Except as otherwise provided in this Ordinance, the municipal administration of a municipality shall vest in the Councillor the Nagar Panchayat, as the case may be.

15. (1) Every Council shall consist of such number of councillors as may be fixed by the State Government from time to time by notification.

(2) Save as provided in sub-section (3), all the seats in a municipality shall be filled by persons chosen by direct election from the territorial constituencies to be known as wards in the Municipal area.

(3) The State Government may appoint a person having special knowledge or experience in Municipal administration to be a member of the Municipal Council:

Provided that such person shall not have the right to vote in the meetings of the municipality.

16. (1) In respect of a municipality having population of three lakhs or more there shall be constituted by the State Government, by order, such number of Wards Committees as may be determined by it, so however, that each Wards Committee shall consist of not less than five wards:

Provided that in constituting Wards Committees, the State Government shall maintain geographical contiguity as far as possible.

(2) Each Wards Committee shall consist of—

(i) the members elected from the wards for which Wards Committee is constituted;

(ii) the Executive Officer who shall be the ex officio member, and

(iii) such other officers of the municipality as the State Government may specify to be ex officio members of whom one specified officer shall be the Secretary of the Ward Committee:

Provided that the ex officio members shall have the right to speak and participate in the meetings of the Wards Committee but shall not have the right to vote.
(3) The Chairperson of the Wards Committee shall be elected by the elected members thereof from among themselves.

(4) The Chairperson shall cease to hold office if he ceases to be a member of the Wards Committee. Any casual vacancy in the office of the Chairperson shall be filled by election of another Chairperson from among the elected members of the Wards Committee as soon as may be after the occurrence of the vacancy.

(5) The powers and functions of the Wards Committee and the manner of conduct of business at its meetings shall be such as may be prescribed.

17. In every municipality, out of the total strength of elected members determined under section 15, the State Government shall subject to such rules as may be prescribed, by notification, reserve—

(1) such number of seats to the Scheduled Castes and the Scheduled Tribes as may be determined by them, subject to the condition that the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election to the Municipal Council, as the population of the Scheduled Castes or as the case may be, of the Scheduled Tribes in that municipality bears to the total population of that municipality; and such seats may be allotted by rotation to different wards in the municipality;

(2) not less than one-third of the total number of seats reserved under sub-section (1) shall be reserved for women belonging to the Scheduled Castes or as the case may be, the Scheduled Tribes;

(3) not less than one-third (including the number of seats reserved for women belonging to the Scheduled Tribes and the Scheduled Castes) of the total number of seats to be filled by direct election to every Council, for women; and such seats may be allotted by rotation to different wards in a municipality.

Explanation.—In this section the expressions “Scheduled Castes”, “Scheduled Tribes” shall have the meanings respectively assigned to them in clauses (24) and (25) of article 366 of the Constitution of India.

(4) The office of Chairpersons of the municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the State Government may prescribe by notification in this regard.

(5) The reservation of seats under sub-sections (1) and (2) and the reservation of office of Chairperson (other than the reservation for women) under sub-section (4) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India.

18. The State Government shall carry out the determination of the boundaries of the wards in a municipality and the allocation of seats reserved in favour of the Scheduled Castes, the Scheduled Tribes and women among the wards in the prescribed manner.
19. (1) A person shall be disqualified for being chosen as and for being a member of a municipality—

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Manipur Legislative Assembly:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by Manipur Legislative Assembly;

(c) if he is not registered as an elector in the electoral roll for a ward;

(d) if he is not ordinarily resident within the ward from which he is seeking election.

Explanation.—The expression “ordinarily resident” shall have the same meaning as assigned to it in section 20 of the Representation of the People Act, 1950.

(2) If any question arises as to whether a member of a municipality has become subject to any of the disqualifications mentioned in sub-section (1) the question shall be referred for the decision of the Election Tribunal consisting of one member to be appointed by the State Government and in such manner as may be prescribed.

20. (1) Every person who is elected or appointed a Councillor of a municipality shall, before entering upon his office under this Ordinance, make and subscribe before such authority as may be prescribed for the purpose, an oath or affirmation of his allegiance to the Constitution of India in the prescribed form.

(2) Any person, having elected or appointed Councillor fails to make and subscribe, within three months from the date of the first meeting of the municipality the oath or affirmation laid down in sub-section (1) shall cease to hold his office and his office shall be deemed to have become vacant.

21. The State Government shall appoint a person as an administrator to exercise the powers and perform the duties and functions of a municipality until a municipality is constituted for such area under this Ordinance:

Provided that the period of such appointment shall not exceed six months:

Provided further that an administrator appointed under the provisions of the Manipur Municipalities Act, 1956 on or before the 12th day of October, 1993 shall be deemed to have been validly appointed under that Act and the term of such administrator shall cease to have effect on the commencement of this Ordinance.

22. (1) Every municipality, unless sooner dissolved under this Ordinance, shall continue for five years from the date of its first meeting after a general election at which a quorum is present and no
Provided that a municipality which is functioning immediately before the commencement of this Ordinance shall continue till the expiration of its duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of the State of Manipur.

(2) An election to constitute a municipality shall be completed—

(a) before the expiry of its duration specified in sub-section (1);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved municipality would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constituting the municipality for such period.

Provided further that the result of election shall be notified.

(3) A municipality constituted upon the dissolution of a municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved municipality would have continued under sub-section (1) had it not been so dissolved.

23. For every Council there shall be a Chairperson and a Vice-Chairperson.

24. (1) Save as otherwise provided in this Ordinance, the Councillors at the first meeting of the Council to be called at the instance of the Deputy Commissioner after a general election shall elect one of them to be the Chairperson in accordance with rules made in this behalf.

(2) Such election shall take place within twenty-one days from the date of notification of the result under section 22; and in the case of vacancy in the office of the Chairperson on account of any reason other than expiry of the term of office of the Chairperson, within twenty-one days from the date of the occurrence of the vacancy.

(3) The State Government shall appoint a person to preside over the meeting and for the purpose of the business mentioned in sub-section (1).

25. The Councillors shall, either at the meeting mentioned in sub-section (1) of section 24 or at subsequent meeting elect one among themselves other than the Chairperson elected under sub-section (1) of section 24 to be the Vice-Chairperson.

26. When a Councillor who holds the office of Chairperson or the Vice-Chairperson ceases, for any reason whatsoever to be a Councillor, he shall, at the same time, cease to hold office of the Chairperson or the Vice-Chairperson, as the case may be.
27. If any Councillor is by reason of his death, resignation or removal or otherwise, is unable to complete his full term of office, the vacancy so caused shall be filled up by election or appointment, as the case may be, of a person under the provisions of this Ordinance and the person so elected or appointed shall hold office for the expired term of his predecessor:

Provided that no election for filling up a casual vacancy shall be held if the vacancy occurs within a period of six months preceding the date on which the term of office of the Councillor expires.

28. (1) The Chairperson may resign his office by writing a letter of resignation addressed to the Vice-Chairperson, who shall forthwith deliver the letter to the Executive Officer.

(2) The Vice-Chairperson or a Councillor may resign his office by writing a letter of resignation addressed to the Chairperson, who shall forthwith deliver the letter to the Executive Officer.

(3) The resignation under sub-section (1) or sub-section (2) shall take effect from the date on which it is accepted by the Government.

(4) The Executive Officer shall forthwith intimate the fact of resignation received under sub-section (1) or sub-section (2) to the Council and the State Government.

(5) On receipt of the intimation under sub-section (4), the State Government shall notify in the Official Gazette the fact of the resignation and occurrence of casual vacancy consequent thereon.

29. (1) The State Government may remove any elected Councillor on the ground of his misconduct in the discharge of his duties if the removal is recommended by a resolution of the municipality passed at a special meeting called for the purpose and supported by a majority of the total number of Councillors of the municipality and by a majority of not less than two-third of Councillors present and voting in such a meeting.

(2) The State Government may remove any Councillor—

(a) if he ceases to reside within the municipality continuously for a period of twelve months; or

(b) if he has been declared by the State Government by notification to have violated his oath or affirmation of allegiance; or

(c) if he becomes disqualified by or under any law for the time being in force for the purposes of elections to the Manipur Legislative Assembly; or

(d) if he has, within the meaning of section 59—knowingly acquired or continued to hold without the permission in writing of the State Government, directly or indirectly or as a partner, any share of interest in any contract or employment with or on behalf, of the municipality; or

(e) if he is in arrears of any kind of dues to the municipality for more than six months after a bill or a notice has been duly served on him:
Provided that no Councillor shall be removed under sub-section (1) or sub-section (2) unless he has been given an opportunity of being heard.

30. No Councillor of a Nagar Panchayat or a Council who has been removed from his office under sub-section (1) or under clause (b), (c), (d) or (e) of sub-section (2) of section 29 shall be eligible for election or re-election as a Councillor for such period as may be prescribed.

31. (1) The State Government may remove by a notification in the Official Gazette, from office the Chairperson or the Vice-Chairperson, in pursuance of a resolution passed by a majority of the total number of the Councillors and supported by not less than two third of the Councillors present and voting at a meeting specially convened for the purpose under sub-section (2).

(2) For the purposes of sub-section (1) a meeting of the Nagar Panchayat or of the Council shall be held in the following manner, namely:—

(i) the meeting shall be convened by the Executive Officer on a requisition signed by not less than one-fifth of the total number of Councillors constituting the Nagar Panchayat or the Council for the time being;

(ii) the notice of such a meeting specifying the time and place thereof shall be despatched by the Executive Officer to every Councillor ten days before the meeting;

(iii) the Chairperson or the Vice-Chairperson, as the case may be against whom the resolution referred to in sub-section (1) is to be moved, shall not preside over the meeting;

(iv) a copy of the notice shall be sent to the State Government.

(3) If the office of the Chairperson becomes vacant all powers and duties of the Chairperson, may, until the election of a new Chairperson be exercised and performed by the Vice-Chairperson.

(4) The removal of the Chairperson or the Vice-Chairperson under sub-section (1) shall be effective from the date of its resolution in this regard.

32. (1) The Nagar Panchayat or the Council, as the case may be, may, from time to time, grant such leave of absence to the Chairperson or the Vice-Chairperson as it may deem fit.

(2) If a Chairperson or a Vice-Chairperson remains absent from office owing to illness or any other cause for a period exceeding three months without the leave of the Nagar Panchayat or the Council, as the case may be, he shall cease to be Chairperson or Vice-Chairperson, as the case may be, and his office shall become vacant.

(3) During the absence on leave of the Chairperson, the Vice-Chairperson and in the like event in the case of a Vice-Chairperson, such one of the Councillors as may be elected by them to act as Vice-Chairperson, shall discharge the functions of the Chairperson or the Vice-Chairperson, as the case may be.

(4) The Vice-Chairperson or the Councillor shall, during and in respect of the period in which he is acting as, or discharging the function
of Chairperson or Vice-Chairperson, as the case may be, exercise the powers conferred and perform the duties imposed on a Chairperson or a Vice-Chairperson by or under this Ordinance or by any other law for the time being in force.

33. It shall be the function of the Chairperson—

(a) to preside, unless prevented by reasonable cause, over all meetings of the Nagar Panchayat or the Council, as the case may be, and subject to the provisions of the bye-laws for the time being in force, to regulate the conduct of business at such meetings;

(b) to watch over the financial and executive administration of the Nagar Panchayat or the Council, as the case may be, and perform such executive functions as may be allotted to him by or under this Ordinance and rules or bye-laws framed thereunder;

(c) to exercise supervisory and executive control over acts and duties of all officers and employees of the Nagar Panchayat or the Council, as the case may be, in matters respecting their executive functions and the accounts and records of the Nagar Panchayat or the Council, as the case may be;

(d) to direct, in case of emergency, the execution or stoppage of any work or doing of any act which requires the sanction of the Nagar Panchayat or the Council, as the case may be, and the immediate execution or doing of which is, in his opinion necessary for the service or safety of the public, and the expenses incurred in the execution of such work or doing of such act shall be paid from Municipal Fund:

Provided that—

(a) he shall not act under clause (d) in contravention of any order of the Nagar Panchayat or the Council, as the case may be, prohibiting the execution of any particular work or the doing of any particular act; and

(b) he shall report forthwith the action taken under clause (d) and the reasons therefor to the Nagar Panchayat or the Council, as the case may be, at its next meeting.

34. It shall be the function of the Vice-Chairperson—

(a) in the absence of the Chairperson and unless prevented by reasonable cause, to preside over the meetings of the Nagar Panchayat or the Council, as the case may be, and he shall, when so presiding, exercise the same authority as is vested in the Chairperson under clause (a) of sub-section (1) of section 33;

(b) pending the election of a Chairperson, or during the absence of the Chairperson to exercise the powers and perform the duties of the Chairperson.

35. The Chairperson, the Vice-Chairperson or any other Councillor of a Council may be granted by the Council such remuneration or such allowance may be prescribed:

Provided that the expenditure to be incurred under this section shall without prejudice to the provisions of section 71, be paid out of the Municipal Fund.

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36. (1) The State Government as and when it considers expedient may, by notification, entrust the Municipalities with the function of—

(a) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to including those in relation to the matters listed in the Schedule.

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Schedule.

(2) On entrustment of functions under sub-section (1), the Government shall allot to the Municipality such fund and personnel as may be necessary to enable the Municipality to discharge the functions and duties so entrusted.

37. It shall be the duty of every Municipality to make reasonable provision for the following matters within the municipality under its jurisdiction, namely:

(a) lighting public roads and places;

(b) watering public roads and places;

(c) cleaning public roads, places and sewers and all spaces not being private property, which are open to the enjoyment of the public whether such spaces are vested in the Municipality or not, removing noxious vegetation and abating all public nuisance;

(d) removing filth, rubbish, night-soil, odour or any other noxious or offensive matter from privies, latrines, urinals, cess-pools or other common receptacles for such matter in or pertaining to a building or buildings;

(e) extinguishing fires and protecting life and property when fire occurs;

(f) regulating offensive or dangerous trades or practices;

(g) removing obstructions and projections in public roads or places and in spaces not being private property, which are open to the enjoyment of the public whether such spaces are vested in the Municipality or belong to the State Government;

(h) securing or removing dangerous buildings or places and reclaiming unhealthy localities;

(i) acquiring, maintaining, changing and regulating places for the disposal of dead bodies and of the carcasses of dead animals;

(j) constructing, altering and maintaining public roads, culverts, municipal boundary marks, markets, slaughter-houses, drains, sewers, drainage-works, sewerage-works, baths, washing-places, drinking-fountains, tanks, wells, dams and the like;

(k) constructing public latrines, privies and urinals;

(l) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of inhabitants from the insufficiency or unwholesomeness of the existing supply;
(m) naming streets and numbering houses;
(n) registering births and deaths;
(o) suitable accommodation for any calves, cows or buffaloes required within the municipality for the supply of animal lymph;
(p) printing such annual reports on the administration of the municipality as may be necessary or as the State Government may by general or special orders require the Municipality to print;
(q) making arrangements for preparation of compost manure from night-soil and rubbish; and
(r) establishing and maintaining cattle ponds.

38. Subject to such reasonable provisions as may be made under section 37 every municipality shall make reasonable provision for the following special matters, namely:—

(a) providing special medical aid and accommodation for the sick in times of a dangerous disease and taking such measures as may be required to prevent the outbreak or suppress and prevent the recurrence of the disease; and

(b) giving relief and establishing and maintaining relief works, in times of famine or scarcity, to or for destitute persons within the limits of the municipality.

39. A Municipality may, at its discretion, provide out of the municipal property and fund, either wholly or partly, for—

(a) laying out, whether in areas previously built upon or not, new public roads and acquiring land for the purpose, including land acquired for the construction of buildings for curtilages thereof, to about on such roads;

(b) constructing, establishing, maintaining, or contributing to the maintenance of public parks, gardens, libraries, museums, reading rooms, halls, offices, drillsheds, rest-houses, encamping grounds and other public buildings and places;

(c) constructions and maintaining, where necessary suitable sanitary houses for the habitation of the poor and granting loans for the construction of such houses or for effecting necessary improvements connected therewith;

(d) providing accommodation for any class of servants employed by the municipality or granting loans to such servants for construction of houses subject to the rules made in this behalf;

(e) planting and maintaining trees in the roadside;

(f) securing or assisting to secure suitable places for the carrying on the offensive trades mentioned in section 167;

(g) supplying, constructing and maintaining receptacles, fitting pipes, and other appliances whatsoever on or for the use of private premises, for receiving and conducting the sewage thereof into sewers under the control of the municipality.
(h) the public health and infant welfare;

(i) contribution towards any public fund raised for the relief of human suffering within or without the municipality;

(j) any public reception, ceremony, entertainment, or exhibition within the municipality by a resolution passed at a general meeting and supported by one-half of the total number of Councillors;

(k) the organisation or maintenance of shops or stalls for the sale of necessaries of life;

(l) holding fairs and exhibitions;

(m) supply of milk;

(n) establishing labour welfare centres for its employees and subsidizing the activities of any association, union or club of such employees by grant of loan for its general advancement;

(o) maintenance of ambulance service;

(p) establishing and maintaining public hospitals and dispensaries and providing public medical service;

(q) providing facilities for antirabic treatment and meeting the expenses of indigent person undergoing antirabic treatment within or outside the municipal limits;

(r) housing and maintaining destitute orphans and cripples and maintaining maternity centre and child welfare clinics;

(s) establishing rescue homes;

(t) any other matter which is likely to promote education or the public health, safety or convenience or the advancement of economic condition of the inhabitants of the municipality or which is necessary for the purposes of this Ordinance.

40. The management, control and administration of every public institution exclusively maintained out of the municipal property and fund shall vest in the municipality by which it is so maintained.

CHAPTER V

ESTABLISHMENT

41. (1) There shall be an Executive Officer of every Nagar Panchayat or Council, as the case may be, who shall also function as Secretary to the Nagar Panchayat or Council, as the case may be, and all other officers and employees of the Nagar Panchayat or Council, as the case may be, shall be subordinate to him.

(2) A Nagar Panchayat or Council, as the case may be, shall appoint an Executive Officer with the concurrence of the State Government and the State Government may, if any particular Nagar Panchayat or Council, as the case may be, does not make such appointment, appoint any person as such officer in respect of that Nagar Panchayat or Council, as the case may be.
(3) A Nagar Panchayat or Council, as the case may be, may in addition to the Executive Officer, also appoint other officers to assist the Executive Officer with the concurrence of the State Government.

42. The Executive Officer shall:—

(a) subject to the general control of the Chairperson, watch over the financial and executive administration of the Nagar Panchayat or Council, as the case may be, and perform all the duties and exercise all the powers imposed or conferred upon him, by or delegated to him under this Ordinance and rules bye-laws framed thereunder; and

(b) give effect to the decision taken by the Nagar Panchayat or Council, as the case may be, and submit periodic reports, if the Nagar Panchayat or Council, as the case may be, so directs, regarding the progress made in respect thereof.

43. (1) Every Nagar Panchayat or Council, as the case may be, shall have a Health Officer, a Revenue Officer and an Engineer for the efficient discharge of its functions and duties.

(2) The Nagar Panchayat or Council, as the case may be, shall appoint a Health Officer, a Revenue Officer and the Engineer with the concurrence of the State Government.

44. (1) Except as provided in sections 41 and 43 and subject to the approval of the State Government, a Nagar Panchayat or a Council may, by a special resolution determine the category and strength of employees required by it, for discharge of its functions and duties.

(2) Notwithstanding anything contained in section 71, the expenditure incurred on the establishment of Nagar Panchayat or a Council shall be paid out of the Municipal Fund.

45. Subject to the provisions contained in sections 41 and 43 a Nagar Panchayat or a Council shall have power to appoint its officers and employees:

Provided that the Chairperson may fill up such non-technical posts in the Grades III and IV in such manner as may be laid down in bye-laws framed in this behalf.

46. (1) An employee of a Nagar Panchayat or a Council who is aggrieved by an order of the Chairperson in a disciplinary proceeding against him shall have right to appeal to the Nagar Panchayat or the Council within thirty days from the date of service of such order on him.

(2) An employee who is aggrieved by an order of the Nagar Panchayat or the Council may prefer an appeal to the State Government against such an order within sixty days from the date of service of such order.

Provided that no appeal against an order other than an order for removal or dismissal shall lie to the State Government.
(3) Subject to the provisions of this Ordinance, the disciplinary action, conditions of the service and qualifications in respect of the employees of a Nagar Panchayat or a Council shall be the same as applicable to the employees of the State Government, from time to time.

47. The rules relating to gratuities and pensions applicable to the employees of the State Government shall apply to the employees of the Nagar Panchayat or, as the case may be, the Council and shall be paid out of the Fund of the Nagar Panchayat or, as the case may be, of the Council.

48. The State Government may make rules regarding the appointment, salaries, condition of services, powers, duties and functions of the Executive Officer, other Officers and employees and other of the Nagar Panchayat or the Council and other relevant matters connected thereof:

Provided that no disciplinary action shall be taken against the Executive Officer except with the approval of the State Government.

CHAPTER VI

CONDUCT OF BUSINESS

49. (1) There shall be at least one meeting of the Nagar Panchayat or the Council for transaction of its business in every month to be held on such date as is fixed by the Nagar Panchayat or the Council at a special meeting convened for the purpose, at the municipal office, if any, or other convenient place of which notice has been duly given.

(2) If there be no business to be laid before the Nagar Panchayat or the Council at any monthly meeting, the Chairperson shall, instead of calling the meeting, give notice of the fact to each Councillor three days before the date which is fixed for the monthly meeting.

(3) The Chairperson, or in his absence the Vice-Chairperson may, on a written requisition of not less than one half of the total number of Councillors, call a special meeting.

(4) If the Chairperson or the Vice-Chairperson, as the case may be, fails to call a special meeting within fifteen days after any such requisition has been made, the meeting may be called by the Councillors who made the requisition.

50. If at a meeting neither the Chairperson nor the Vice-Chairperson is present, the Councillors present shall elect one of them to preside over the meeting and such Councillor shall perform all the duties and exercise all the powers of the Chairperson of Nagar Panchayat or a Council when presiding over a meeting:

Provided that no candidate for election to the office of the Chairperson or the Vice-Chairperson shall preside at such election.
51. Save as otherwise expressly provided in or under this Ordinance, all
questions brought before any meeting of the Nagar Panchayat or of the
Council or of any of its committees shall be decided by a majority of
votes of the Councillors present and voting and in the case of equality of
votes, on any question the persons presiding shall have a second or
casting vote:

Provided that at the election—

(a) of Chairperson or Vice-Chairperson; or

(b) of a Councillor to represent the Nagar Panchayat or the
Council, as the case may be, under the provisions of any other law for
the time being in force.

in case of equality of votes, the person presiding shall not exercise his
casting vote and the result shall be decided by lot.

52. (1) No business shall be transacted at a meeting unless a quorum
of one-third of the total number of Councillors of a Nagar Panchayat
or a Council be present:

Provided that in cases where the total number of Councillors of a
Nagar Panchayat or a Council is not divisible by three, the total number
shall be increased by such minimum number as to make the total number
divisible by three.

(2) If there be no quorum present at a meeting the Chairperson or
in his absence the Vice-Chairperson shall adjourn the meeting to such
hour of any future day as he may reasonably fix. A notice of such adjourn-
ment shall be fixed upon a notice board in the municipal office and the
business which would have been brought before the original meeting,
has there been a quorum thereat, shall be brought before the adjourned
meeting and may be disposed of at such meeting or at any subsequent
adjournments thereof whether there be a quorum present or not.

(3) A notice of adjournment exhibited in the notice board of the
municipal office on the day on which the meeting is adjourned, shall be
sufficient notice of the subsequent meeting.

53. (1) Minutes of the proceedings of each meeting of a Nagar Pen-
chayat or a Council or any of its Committee shall be recorded in a book
to be kept for the purpose separately for the Nagar Panchayat or the
Council and for each of its Committees and shall be signed by the per-
sons presiding over the meeting.

(2) The minutes of the meeting of a Nagar Panchayat or a Council
shall at all reasonable times and without charge, be open to inspection,
by any member of the public.
(3) The minutes of the proceedings of all meetings of the Nagar Panchayat or the Council shall forthwith be forwarded by the Executive officer to the Deputy Commissioner, the Director and to the State Government.

54. No resolution of a Nagar Panchayat or a Council shall be modified or cancelled except by a resolution supported by not less than two-thirds of the total number of Councillors and passed at a meeting whereof notice shall be given setting forth fully the proposed resolution to modify or cancel at such meeting and the motion of proposition for modification or cancellation of such resolution.

55. The Deputy Commissioner, the Director and such other officers as the State Government may, by general or special order specify in this behalf, shall be entitled to attend any meeting of a Nagar Panchayat or of a Council within their jurisdiction, address it on any matter affecting the work of their department and take part in the meetings thereof, but shall not have the right to vote.

56. (1) The Nagar Panchayat or the Council at a meeting may appoint, from time to time, committees to be called "Standing Committee" to assist it in the discharge of any specific duties devolved upon it under this Ordinance, within the whole or any portion of the municipality and may delegate to any such committee all or any of its powers which may be necessary for the purpose of rendering such assistance, or withdraw all or any such powers, so delegated.

(2) Each Committee shall consist of Councillors and, when necessary, of such residents with special qualification when the Nagar Panchayat or the Council at a meeting desires to appoint, in such a case the number of Councillors shall not be less than two-thirds of the total number of the members of the Committee:

Provided that no Councillor who has been appointed as a member of one committee, shall be appointed as such in another committee at a time.

(3) The members of such committees shall be liable to all the obligations imposed by this Ordinance on the Councillors of the Nagar Panchayat or the Council in respect of such powers as may be delegated to them.

(4) All the proceedings of any such committee shall be subject to confirmation by the Nagar Panchayat or the Council at a meeting.

(5) All questions connected with the removal or resignation of members of committee shall be settled by the Nagar Panchayat or the Council at a meeting.

57. (1) The Chairperson of the Nagar Panchayat or of the Council, as the case may be, if he is a member of any committee, shall be ex-officio Chairperson thereof.
(2) The Vice-Chairperson of the Nagar Panchayat or of the Council, as the case may be, if appointed a member of any committee of which the Chairperson is not a member, shall be ex-officio Chairperson thereof.

(3) When neither the Chairperson nor the Vice-Chairperson of Nagar Panchayat nor of a Council, as the case may be, is a member of a committee, the Chairperson of such committee shall be nominated by the Chairperson of the Nagar Panchayat or of the Council, as the case may be.

58. Every Chairperson, Vice-Chairperson, Councillor, officer or employees of a Nagar Panchayat or of a Council including a Government servant whose services are lent to the Nagar Panchayat or to the Council, shall be liable for the loss, waste or misapplication of any money or other property owned by or vested in the Nagar Panchayat or the Council, if such loss, waste or misapplication is a direct consequence of any illegal act, omission, neglect or misconduct on his part; and a suit for compensation may be instituted against him in any Court of competent jurisdiction by the Nagar Panchayat or by the Council, as the case may be.

59. No Councillor of a Nagar Panchayat or of a Council shall have without the written permission of the State Government, directly or indirectly, any share or interest in any contract, lease, sale or purchase of land or any agreement for the same or any kind whatsoever to which the Nagar Panchayat or Council is a party, or shall hold any office of profit under it, and if any Councillor shall have such share or interest or shall hold such office he shall thereby become disqualified to continue in office as a councillor:

Provided that a Councillor shall not be so disqualified or liable by reason—

(a) of having a share or interest in:

(i) a contract entered into between the Nagar Panchayat or the Council, as the case may be, and any incorporated or registered company or any registered Co-operative Society of which such Councillor is a member or shareholder; or

(ii) any agreement for the loan of money, or any security for the payment of money only; or

(iii) any newspaper in which any advertisement relating to the affairs of the municipality is inserted; or

(b) of his being professionally engaged on behalf of the Nagar Panchayat or the Council, as the case may be, as a legal or medical practitioner and receiving a fee for services rendered in his professional capacity.
60. In a Nagar Panchayat or in a Council—

(a) subject to the proviso to section 59 any Councillor who acquires, directly or indirectly any share or interest in any contract or employment with, under, by or on behalf of a Nagar Panchayat or a Council of which he is a Councillor;

(b) any executive officer or employee who acquires directly or indirectly any share or interest in any contract with, under, by or on behalf of a Nagar Panchayat or a Council except in so far as it relates to his own employment as executive officer or an employee, shall be publishable with fine which may extend to five thousand rupees.

61. No Councillor of a Nagar Panchayat or of a Council or no member of a committee shall vote or take part in the discussion of any question at a meeting of the Nagar Panchayat or of a Council or committee if the question is one in which he has direct or indirect pecuniary interest.

CHAPTER VII

MUNICIPAL PROPERTY, FINANCE AND CONTRACTS

62. (1) All property within the municipality, other than private property or property maintained by the Government or other local authority, shall vest in the Nagar Panchayat or the Council as the case may be, and shall, with all other property of whatever nature and kind which may become vested in the Nagar Panchayat or the Council, as the case may be, be under its direction, management and control, unless the State Government otherwise directs by notification, namely:

(a) all public roads including the soil, the pavements, stones and other materials thereof, and all drains, bridges, trees, erections, materials, implements and other things provided for such roads;

(b) all public streams, channels, water courses, springs, tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps and other water-works, whether made, laid or created at the cost of the Nagar Panchayat or of the Council or otherwise and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto and also any adjacent land, not being private property, appertaining to any public tanks:

Provided that water-pipes and water-works connected therewith or appertaining thereto which with the consent of the Nagar Panchayat or of the Council are laid or set up in any street by the owners of any mill, factory, workshop or the like primarily for the use of their employees shall not be deemed to be public water-works by reason of their use by the public;

(c) all public sewers and drains, and all works, materials and things appertaining thereto and other concomitance works;

(d) all sewage, rubbish and offensive matter collected by the Nagar Panchayat or by the Council from roads, lawns, sewers, cess-pools and other places;
(e) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto, and all public gates, markets, slaughter houses and public buildings of every description which have been constructed or are maintained out of the municipal fund; and

(f) all land or other property transferred to the Nagar Panchayat or Council, as the case may be, by the Government or acquired by the Nagar Panchayat or Council, as the case may be, by gift, purchase or otherwise for local public purposes.

(2) The State Government may, by notification direct that any property which has vested in the Nagar Panchayat or the Council, as the case may be, shall cease to be so vested, and the State Government may pass such orders as it may deem fit regarding the disposal and management of such property.

(3) The State Government may resume any immovable property transferred to the Nagar Panchayat or the Council, as the case may be, by itself or any other local authority for a public purposes on payment of the amount paid by the Nagar Panchayat or by the Council, as the case may be, for such transfer and the market value at the date of resumption of any building or works subsequently created or executed thereon by the Nagar Panchayat or by the Council, as the case may be:

Provided that compensation need not be paid for buildings or works constructed or created in contravention of the terms of the transfer.

63. Notwithstanding anything contained in section 6 or 13, no Nagar Panchayat or the Council, as the case may be, shall transfer any immovable property except in pursuance of a resolution passed at a meeting thereof by a majority of not less than two-third of its members and except when it is not required for local public purposes:

Provided that in the case of property which has been transferred to it by the State Government the transfer under this section shall be subject to the previous sanction of the State Government:

Provided further that nothing in this section shall apply to leases of immovable property for a term not exceeding two years in total.

64. (1) The Nagar Panchayat or the Council, as the case may be, may enter into any contract necessary for the purposes of this Ordinance.

(2) Every contract made by or on behalf of the Nagar Panchayat or the Council, as the case may be, in respect of any sum exceeding ten thousand rupees shall be sanctioned by the Nagar Panchayat or the Council, as the case may be, at a meeting and shall be in writing and shall be signed by at least two Councillors one of whom shall be the Chairperson or the Vice-Chairperson and in absence of both the Executive Officer. Every such contract shall be sealed with common seal of the Nagar Panchayat or the Council, as the case may be.

(3) Any contract made in contravention of sub-section (2) shall not be binding on the Nagar Panchayat or the Council, as the case may be.

65. (1) The Nagar Panchayat or the Council at a meeting may agree with the person in whom the property in any road, bridge, tank, ghat, well, channel, or drain, vested to take over the property therein or the control thereof, and after such agreement may declare by notice in writing put up therein or near thereto that such roads, bridge, tank, ghat, well, channel or drain has been transferred to the Nagar Panchayat or the Council, as the case may be.
(2) On completion of the transfer the property shall vest in the Nagar Panchayat or the Council, as the case may be, and shall thenceforth be repaired and maintained out of the municipal fund.

66. When any land, whether within or without the limits of a municipality is required for the purposes of this Ordinance, the State Government may, at the request of the Nagar Panchayat or the Council, proceed to acquire it under the provisions of the Land Acquisition Act, 1894, and on payment by the Nagar Panchayat or the Council, as the case may be, of the compensation awarded under that Act and of any other charges incurred in acquiring the land, the land shall vest in the Nagar Panchayat or the Council, as the case may be.

67. (1) There shall be formed for each Nagar Panchayat and for each Council a municipal fund to be called the "Municipal Fund" and it shall be held by the Nagar Panchayat or by the Council, as the case may be, for the purposes of this Ordinance and subject to the provisions thereof.

(2) The Municipal Fund shall vest in the Nagar Panchayat or the Council, as the case may be.

68. (1) There shall be credited to the municipal fund:

(a) all sums received by or on behalf of the Nagar Panchayat or the Council under the provisions of this Ordinance or of any other law for the time being in force or under any contract;

(b) the balance, if any, standing at the credit of the Nagar Panchayat or the Council at the commencement of this Ordinance;

(c) all proceeds of the disposal of property by, or on behalf of, the Nagar Panchayat or the Council;

(d) all rents accruing from any property of the Nagar Panchayat or the Council;

(e) all moneys raised by any tax levied for the purposes of this Ordinance;

(f) all fees payable and levied under this Ordinance;

(g) all moneys received by the Nagar Panchayat or by the Council by way of compensation or for compounding offences under the provisions of this Ordinance;

(h) all moneys received by, or on behalf of, the Nagar Panchayat or the Council from the State Government or private individuals by way of grants, contribution, gift or deposits; and

(i) all interest and profit, arising from any investment of, or from any transaction in connection with, any money belonging to the Nagar Panchayat or the Council.

(2) Nothing in this section or in this Ordinance shall affect any obligation of a Nagar Panchayat or of a Council arising from a tax legally imposed upon or accepted by the Nagar Panchayat or by the Council, as the case may be.
69. (1) A Nagar Panchayat or a Council may, with the previous sanction of the State Government and subject to such conditions as may be prescribed as to security, the rate of interest and the repayment of principal and interest, borrow either from the State Government or any financial institution, any sum of money required or empowered to undertake under the provisions of this Ordinance.

(2) Nothing contained in sub-section (1) or the rules made thereunder shall apply to grants or loans or advance made to a Nagar Panchayat or to a Council by any department, office or authority of the State Government or by any local authority or by any other institution towards, and for the purpose of, the implementation, achievement and accomplishment of community development schemes and a Nagar Panchayat or a Council may accept any such grant or loan which shall be regulated and governed by the terms on which, and the conditions subject to which, the same is made or advanced.

70. (1) All property vested in a Nagar Panchayat or in a Council under this Ordinance, all funds received by it in accordance with the provisions of this Ordinance, and all sums accruing to under the provisions of any law for the time being in force shall, subject to the provisions of this Ordinance, be applied for the purposes of this Ordinance, within the limits of the municipality.

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for a Nagar Panchayat or a Council, as the case may be, subject to rules made under this Ordinance:

(a) to incur expenditure beyond the municipal limits on the acquisition of land, or on the construction, maintenance or repair of works, for the purpose of obtaining supply of water required for inhabitants of the municipality or on establishing slaughterhouses or places for the disposal of night-soil or sewage or carcasses of animals or for drainage works, or for the purpose of providing mechanically propelled transport facilities for the conveyance of the public or for the purpose of setting up dairies or farms for the supply, distribution and procuring of milk—products for the benefit of the inhabitants of the municipality or for any other purpose calculated to promote the health, safety or convenience of the inhabitants of the municipality; or

(b) to take a contribution towards expenditure incurred by any other local authority or out of any public fund for measures affecting the health, safety or convenience of public calculated to benefit the residents within the limits of the contributing municipality; or

(c) to create scholarship tenable outside the limits of municipality; or

(d) to utilise the municipal fire brigade and other mechanical appliance beyond the municipal limits; or
(e) to make with the previous sanction of the State Government any other kind of contribution as may be deemed necessary by
the Nagar Panchayat or the Council:

Provided that nothing in this section or in any other provision of this Ordinance shall be deemed to make it unlawful for a Nagar Panchayat or a Council, when it has constructed works beyond the limits of the municipality for the supply of water or electrical energy or for drainage as aforesaid—

(a) to supply or extend to or for the benefit of any person or building or lands in any place whether such place is not within the
limits of the said municipality, any quantity of water or electrical energy not required for the purpose of this Ordinance within the
said municipality or the advantages afforded by the system of drainage works, on such terms and conditions with regard to payment and
to the continuance or such supply advantages as shall be settled by agreement between the Nagar Panchayat or the Council, as the
case may be, and such persons or the occupier or owner of such
buildings or land; or

(b) to incur any expenditure on such terms with regard to pay-
ment as may be settled as aforesaid for the construction, maintenance,
repair or charge of any connection pipe or any electric supply lines
or other works necessary for the purposes of such supply or for the extension of such supply or for the extension of such
advantages.

71. (1) A Nagar Panchayat or a Council at a meeting specially convened for the purpose, two months before the close of the financial year, shall prepare in such form and manner as may be prescribed, a budget showing inter alia the probable receipts and expenditure during the ensuing year and after such revision as may appear requisite it shall pass the budget and such budget shall be submitted to the Director for obtaining approval of the State Government:

Provided that if the approval is not intimated within one month from the date of the receipt of the budget by the State Government or the receipt of such other information as is called for by the State Government, it shall be taken that the budget is approved.

(2) The Nagar Panchayat or the Council may, from time to time, revise any estimates of expenditure with the view of providing for any modification which it may deem advisable to make in the appropriation of the amount at its disposal and such revised budget shall be passed in the manner provided in sub-section (1).

(3) When the budget has been passed, the Nagar Panchayat or the Council shall not incur any expenditure under any of the heads of the budget in excess of the amount sanctioned under that head without making a provision for such excess by a revision of the budget in the manner specified in sub-section (2).
72. (1) Every Municipality shall maintain such accounts for every financial year in such forms as may be prescribed and submit such statements to the Deputy Commissioner, the Director and the State Government and such accounts shall be audited by the Director, Local Fund Audit and Accounts of the Government of Manipur in such manner as may be prescribed.

(2) The Municipality shall comply with such directions as the State Government may deem fit to issue after going through the audit report proceeding it.

(3) The Municipality shall pay out of the municipal fund such sum as may be determined by the State Government by way of charges for such audit.

73. (1) The State Finance Commission constituted under section 97 of the Manipur Panchayati Raj Act, 1944, shall also review the financial position of the Municipalities and make recommendations to the Governor as to—

(a) the principles which should govern—

(i) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State which may be divided between them under this Ordinance and the allocation between the Municipalities at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;

(iii) the grant-in-aid to the Municipalities from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Municipalities;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

(2) The Governor shall cause every recommendation made by the Commission under this section together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

CHAPTER VIII

MUNICIPAL TAXATION

74. The State Government may, from time to time, by notification in the Official Gazette—

(a) authorize a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits as may be prescribed by it.
(b) assign to a municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits to be prescribed by it;

(c) provide for making such grant-in-aid to the municipalities from the Consolidated Fund of the State.

75. (1) Subject to the provisions of this Chapter and with the previous approval of the State Government, Municipal Council may, from time to time, impose in the whole or in any part of the municipality any of the following taxes and tolls, namely:—

(a) a tax on holding situated within the municipality assessed on their annual value, payable by the owner of the building or land or both;

(b) a tax on all or any of the vehicles, other than covered by the Motor Vehicles Act, 1988, or animals used for riding, driving, draught or burden and used within the limits of the municipality whether they are actually kept within or outside the said limits;

(c) an octroi on goods brought within the limits of the municipality for sale, consumption or use within such limits;

(d) a latrine-tax payable by the owners or occupiers for collections, removal and disposal of excrement or offensive matter from latrines, privies, urinals, cess-pools or compounds by the municipality; the limits of the municipality;

(e) a scavenging-tax;

(f) lighting-tax where the lighting arrangement is made by the municipality;

(g) a drainage tax where a system of drainage has been introduced by the municipality;

(h) a tax on deeds of transfer of immovable property situated within the limits of the municipality;

(i) a tax on advertisements made within the limits of the municipality other than non-commercial undertaking advertisements published in newspapers;

(j) a water-tax where water is supplied by the municipality;

(k) market fees on person exposing goods for sale in any market or any place belonging to or under the control of the State Government or of the municipality;

(l) a betterment charge on properties the value of which may be increased as a result of town planning scheme implemented by the municipality; and

(m) any other tax, toll, rate, charge or fee.
(2) With the previous sanction of the State Government a municipality may, from time to time, charge a fee in respect of the issue and renewal of any licence which may be granted by the municipality under this Ordinance and in respect of which no fee is leviable under sub-section (1).

(3) Subject to the provisions of any law that may be made by Parliament, any tax or fee which immediately before the commencement of the Ordinance, was being lawfully levied under the Manipur Municipalities Act, 1976 notwithstanding that such tax or fee is not specified in subsection (1) shall continue to be levied by the Nagar Panchayat or, as the case may be, by the Council.

(4) The State Government may from time to time direct the municipality to impose any tax or to modify the rate of any tax already imposed.

(5) On default of the municipality to comply with the decision under subsection (4) within three months from the receipt of the direction the municipality may be required to furnish reasons as to why the tax should not be imposed or modified, as the case may be.

76. Notwithstanding any provisions to the contrary all Municipal taxes including services charges except under clause (a) of sub-section (1) of section 75 in respect of Government holdings shall be payable to municipality by the Government Department which is in control and management of the holdings.

77. The State Government shall have the power to exempt by an order published in the Official Gazette any class of building or holding from levying any tax under section 75 of this Ordinance.

78. All the taxes mentioned in section 75 shall be collected in the manner provided in the bye-laws.

79. When it has been decided to impose any tax on the annual value of holdings, the assessor after making such enquiries as may be necessary, shall determine the valuation of all holdings within the municipality as hereinafter provided, and shall enter the same in a list called the valuation list, which shall be in the prescribed form:

Provided that valuation other than general valuation may be made by the municipality through such person as may be authorised by the municipality in this behalf.

80. The assessor, in order to prepare the valuation list, may whenever he thinks fit, by notice require the owners or occupiers of all holdings to furnish him, within fifteen days with returns of the rent or annual value thereof and a description of the holdings in such detail as the municipality may direct; and the assessor, at any time between sunrise and sunset may enter, inspect and measure any such holdings:

Provided that at least forty-eight hours' previous notice of the intention to enter, inspect and measure any holding shall be given to the owner or occupier thereof, unless he waives his right to such notice.
81. (1) Whoever refuses or fails to furnish any such return for the period of fifteen days from the day on which he has been required to do so, or knowingly furnishes a false or incorrect return or description shall be punishable with fine not exceeding five hundred rupees and with further fine not exceeding fifty rupees for each day during which he omits to furnish a true and correct return.

(2) Whoever obstructs, binds or prevents the assessor appointed by the municipality from entering or inspection or measuring any such holding shall be punishable with fine not exceeding two thousand rupees.

82. "Annual value" means—

(a) in the case of hotels, colleges, schools, hospitals, factories and such other buildings, a proportion not exceeding five per centum, to be fixed by rule made in this behalf of the sum obtained by adding the estimated present cost of erecting the building, less depreciation at the rate to be fixed by rule to the estimated value of the land appurtenant thereto, and

(b) in the case of a building or land not falling within the provisions of clause (a), the gross annual rent for which such buildings, exclusive of furniture or machinery therein or such land is actually let, or where the building or land is not let or in the opinion of the municipality is let for a sum less than its fair letting value, might reasonably be expected to let from year to year:

Provided that where the annual value of any building would, by reason of exceptional circumstances, in the opinion of the municipality be excessive if calculated in the aforesaid manner, the municipality may fix the annual value at any less amount which appears to it suitable:

Provided further that the rules framed in this behalf shall be subject to the prior approval of the Government.

83. The mode of procedure and system of tax on the land and holdings will be such as may be prescribed by the rules to be framed by Government from time to time in this behalf.

84. As soon as possible after the percentage at which the tax is to be levied shall have been determined under section 82, the municipality shall cause to be prepared an assessment register which shall contain the following particulars, and any other matters which the municipality may think proper to include—

(a) number of the holding on the register with the name of the road, if any, in which the holding is situated;

(b) annual value of the holding (as stated in the valuation list);

(c) names of owner and occupier;

(d) amount of tax payable for the financial year;

(e) amount of taxes payable separately under clause (a), (c), (f) or (j) of sub-section (7) of section 75;
(f) amounts of quarterly instalments; and

(g) if the holding is exempted from assessment, a note to that effect.

85. (1) If any building belongs to one owner and the land on which it stands and any adjacent land which is usually occupied therewith belongs to another the municipality may value such building and land together and may impose thereon one consolidated tax.

(2) The total amount of the tax shall be payable by the owner of the building, who shall thereafter be entitled to deduct from the rent which he pays for the land such proportion of the tax so paid by him as is equal to the proportion which such rent bears of the annual value of the holdings.

(3) In case of disputes, the municipality shall determine what amount the owner of the building and of the land shall pay respectively.

86. (1) The municipality may, at any time, direct an alteration in, or amendment of the assessment register—

(a) by entering therein the name of any person or any property which in its opinion ought to have been entered, or any property which has become liable to taxation after the preparation of the assessment register, or

(b) by substituting therein with effect from the date of succession or transfer, as the case may be, for the name of the owner of any holding the name of any other person who has succeeded by transfer or otherwise, to the ownership of the holding, or

(c) by altering the valuation of or assessment on any holding which in its opinion has been incorrectly valued or assessed, or

(d) by re-valuing or re-assessing any holding the value of which has been increased by additions or alterations to buildings, or

(e) by reducing, upon the application of the owner the valuation of any holding which has been wholly or partly demolished or destroyed, or the value of which has diminished from any cause beyond the control of the owner, or

(f) by correcting any clerical or arithmetical error.

(2) The municipality shall give at least one month's notice to any person interested in any alteration which the municipality proposes to make under clause (a), (b), (c) or (d) of sub-section (1).

(3) Every alteration made under sub-section (1) in the assessment register shall be signed by the Chairperson or the Vice-Chairperson.

87. (1) Whenever the title to any holding is transferred both the transferor and the transferee shall for the purpose of clause (c) of sub-section (1) of section 86 within three months after the execution of the instrument of transfer, or if no such instrument is executed, within three months after the transfer is effected, give notice in writing of such transfer to the municipality.
(2) In the event of the death of the person in whom such title vests, the person to whom as heir or otherwise, the title of the deceased is transferred by descent or demise, shall within one year, from the death of the deceased, give notice in writing of such succession to the municipality.

(3) Every person liable for the payment of taxes on any holding, who transfers his title to or over such property, without giving notice of such transfer to the municipality, as aforesaid, shall unless the municipality on the ground of hardship arising out of special circumstances, otherwise directs, continue to be liable for the payment of all such taxes from time to time payable in respect of the said property until he gives such notice, or until the transfer shall have been recorded in the municipal books.

(4) The municipality may levy a fee not exceeding one hundred rupees for every such transfer of title to a holding in addition to the tax provided for in clause (a) of sub-section (1) of section 75.

88. (1) A new valuation list shall, unless otherwise ordered by the State Government, be prepared in the same manner as the original list, once in every five years.

(2) Subject to any alteration or amendment made under section 86 and to the result of any application made under section 95 every valuation list or the assessment register shall be valid from the date on which the list or register takes effect in the municipality.

89. (1) The municipality, for the purpose of general valuation may, with the concurrence of the Government, appoint an assessor who shall neither be an employee nor a Councillor of the municipality on such pay and with such establishment as it may determine.

(2) Notwithstanding anything contained in section 88 if at any time it appears to the State Government that the valuation in any municipality is insufficient, excessive or inequitable, the State Government may, by an order in writing, require the municipality to revise the valuation or to show cause against revision within a specified time, and if the municipality fails to comply with the order or in the opinion of the Government the cause shown is inadequate, the State Government may by an order in writing require the municipality to appoint with the approval of the State Government an assessor for the municipality within a time and for a period to be specified in the order. The order shall fix the pay of the assessor and the cost of his establishment, and the pay and cost shall be paid monthly by the municipality.

90. Whenever the valuation list is revised or altered wholly or in part or a new percentage is fixed under section 85 the assessment register also shall be revised and all consequential changes, made therein.

91. The first assessment register prepared for any municipality under the Ordinance and any revision thereof or alteration therein made under the foregoing section shall subject to the provision of sections 86 and 96 and take effect, from the beginning of the quarter following the publication of the notice mentioned in section 96.
32. (1) The taxes mentioned in clauses (a), (g) and (l) of sub-section (1) of section 75 shall not be assessed or levied on any building which is used exclusively as a place of public worship, or on any holding which is duly registered as a public burial or burning ground under this Ordinance.

(2) The municipality may exempt from assessment of the tax mentioned in clause (a) of sub-section (1) of section 75 on any holding used for the purpose of a public charity.

(3) The municipality may reduce the amount payable on account of any of the taxes mentioned in Clauses (a), (b), (f) and (i) of sub-section (1) of section 75 or remit the same on the ground of excessive hardship to the person liable to pay the same:

Provided that such reduction or remission shall not, unless renewed by the municipality, have effect for more than one financial year.

93. An assessor appointed by the municipality under section 89 shall exercise all such powers of valuation as may be vested in him by the municipality or as may be prescribed.

94. (1) When the valuation list mentioned in section 79 and the assessment register mentioned in section 84 shall have been prepared or revised the Chairperson shall sign the same and shall cause them to be deposited in the office of the Nagar Panchayat or as the case may be, of the Council, and shall cause a notice to be published in such form and manner as may be prescribed.

(2) In all cases in which any property is for the first time assessed or the assessment is increased, the Executive Officer shall also give notice thereof to the owner or occupier of the property.

95. (1) Any person who is dissatisfied with the amount assessed upon him or with the valuation or assessment of any holding or who disputes his occupation of any holding or his liability to be assessed, may apply to the municipality to review the amount of assessment of valuation or to exempt him from the assessment of tax:

Provided that no application shall be entertained unless the applicant has paid all arrears of dues to the municipality accorded up to the date of such application other than the sum which has been enhanced by the valuation or assessment against which the review application has been filed.

(2) When an assessor has been appointed under section 89 notice of every such application shall be given by the municipality to the assessor.

96. (1) Every application presented under section 95 shall be heard and determined by a Committee consisting of not more than five members.

(2) The Chairperson or the Vice-Chairperson shall be one of the members of such committee ex-officio, and the other members shall be appointed from among the Councillors by the Nagar Panchayat or, as the case may be, by the Council:

Provided that no member so appointed shall take part in hearing or determining any application from the ward in which he resides, or in the case of an elected member the ward which he represents, but nothing in this proviso shall prevent any such member from giving evidence with regard to the matter under enquiry.
(3) No such application shall be heard or determined by the committee unless at least three members including the Chairperson or the Vice-Chairperson are present.

(4) The committee shall give notice to the applicant of the time and place at which application shall be heard, and after taking such evidence and making such enquiries as may be deemed necessary in the presence of the objector or his agent, if he appears the committee shall pass such orders as it may deem fit in respect of such application.

(5) If the committee orders that any valuation to which the application relates shall be reduced, brief reasons for such reduction shall be recorded.

(6) The decision of the committee or of a majority of the members thereof, in respect of any application referred to in this section shall be final.

97. Unless good cause shall be shown to the satisfaction of the committee referred to in section 96 for extending the time allowed, and save as is otherwise expressly provided in this Ordinance, no such application shall be received after the expiry of one month from the date of publication of the notice required by section 94 relating to the list or register containing the assessment, in respect of which the application is made, or after the expiry of fifteen days from the date of service of the first notice of demand for payment at the rate in respect of which the application is made whichever period shall last expire:

Provided that, if the municipality has served a notice under section 94 on any person, no such application shall be received from him after the expiry of fifteen days from the date of such service.

98. No objection shall be taken to any assessment or valuation in any other manner than is provided in this Ordinance.

99. No assessment of tax on property and no charge or demand of any tax made under authority of this Ordinance shall be invalid for error, defect in form, and it shall be enough in any valuation or assessment for purpose if the property so valued or assessed is so described as to be generally known and it shall not be necessary to name the owner or occupier thereof.

100. The various procedure that may be prescribed by the Government from time to time will be followed for imposing and recovery of tax, tolls, fees and rates under this Ordinance.

CHAPTER IX

RECOVERY OF MUNICIPAL CLAIMS

101. If any tax payable under this Ordinance by the owner of any holding remains unpaid after the notice of demand has been duly served, and if such owner is not resident within the municipality, or the place of abode of such owner is unknown, the tax may be recovered from the occupier for the time being of such holding, who may deduct, from the next and following payments of his rent the amount which may be so paid by or recovered from him:
102. If any holding is occupied by more than one tenant holding severally, it shall be lawful for the municipality, to recover from the owner of such holding, any taxes payable under this Ordinance by the occupier of the holding.

103. Whenever any tax shall be recovered from any owner of any holding under the provisions of section 102, it shall be lawful for such owner, if there shall be but one occupying tenant of such entire holding, to recover from such tenant of the entire amount of the tax which shall have been so paid by such owner, and if there shall be one occupying tenant of a part of such holding, or more than one occupying tenant of such holding then to recover from each tenant such sum as shall bear to the entire amount of tax which may have been so recovered from such owner at the same proportion as the value of the proportion of such holding in the occupation of each tenant bears to the entire value of such holding.

104. Every owner who under the provisions of section 102 may be entitled to recover any sum from any occupying tenant of any holding or of any portion thereof, shall have for the recovery of such sum all such and the same remedies, powers, rights and authorities as if such sum were due and payable to such owner by such tenant in respect of so much of such holding as may be in the occupation of such tenant.

105. Whoever keeps or is in possession of any cart, carriage or animal without the licence as required under this Ordinance shall be liable to a fine not exceeding four times the fee payable by him in respect of such licence, in addition to the licence fee due.

106. The municipality may compound for any period not exceeding one year, with livery stablekeepers and other persons keeping carts, carriages of animals for hire, for a certain sum to be paid for the carts, carriages or animals so kept by such person in lieu of the licence fees specified in any order made by the municipality.

107. (1) The municipality may use its own land or building, or purchase, take on lease or otherwise acquire any land or building for the purpose of establishing a municipal market or improving any existing municipal market.

(2) The municipality may levy rents, tolls and fees at such rates as it may think proper for the right to expose goods for sale in a municipal market and for the use of shops, stalls and standings therein and may also regulate such rates in respect of private markets or places used or declared by the municipality as market places by a public notice in the locality.

(3) The municipality may grant a lease for a period not exceeding three years for collection of rents, tolls and fees in municipal markets at the rates fixed by the municipality under sub-section (2).
(4) A lease of a municipal market appointed under sub-section (3) may refuse to allow any person to expose goods for sale in the market or to use shops, stalls and standings therein until the proper rents, tolls and fees have been paid.

(5) Whoever, having rendered himself liable to the payment of rents, tolls or fees refuses to pay the same shall be punishable with fine which may extend to five hundred rupees.

(6) When resistance is offered to any person authorised to collect rents, tolls or fees, any police officer whom he may call to his aid, shall be bound to assist him; and such police officer shall, for that purpose have the same powers as he has in the exercise of his ordinary police duties.

108. (1) Where any sum is due on account of a tax, other than octroi or tolls or any similar tax payable upon immediate demand, from a person to a municipality, the municipality may, without prejudice to any other mode of recovery provided in this Ordinance apply to the Deputy Commissioner to recover such sum together with costs of proceedings incurred in that behalf.

(2) The Deputy Commissioner, on being satisfied that the sum mentioned in the application under sub-section (1) is due, shall proceed to recover it as soon as may be thereafter, as arrears of land revenue.

109. (1) If money be due under this Ordinance in respect of any holding from the owner thereof, or account of any tax, expenses or charges recoverable under this Ordinance, if the owner of such holding or his whereabouts are unknown or the ownership thereof is disputed or when the owner lives outside the municipality and has failed to pay it in spite of service of demand notice twice, the municipality may publish twice, at an interval of three months, a notification of sale of such holding and after the expiry of not less than three months from date of the last publication, unless the amount recoverable be paid, may sell such holding to the highest bidder, who shall, at the time of sale, deposit forthwith twenty five per cent. of the purchase money. The balance shall be paid within fifteen days of the date of sale. In default of payment of the balance amount, the money if any, so deposited shall be forfeited and the holding shall be re-sold. After deducting the amount due to the municipality, the surplus sale-proceeds, if any, shall be credited to the municipal fund and may be paid on demand to any person who establishes his right of claim to the satisfaction of such municipality or in a Court of competent jurisdiction.

(2) Any person may pay the amount due at any time before the completion of the sale and may recover such amount by a suit in a Court of competent jurisdiction from any person beneficially interested in such property.

110. The irrecoverable sum due to a Nagar Panchayat, or as the case may be, to a Council may be written off in such manner and by such authority as may be prescribed.
CHAPTER X

MUNICIPAL POWER AND OFFENCES

Powers in respect of Road

111. (1) A Nagar Panchayat or as the case may be, a Council may—
(a) layout or make new public road; or
(b) widen, open, enlarge or otherwise improve any public road and construct tunnels and other works subsidiary to such road; or
(c) divert, discontinue or close permanently any public road; or
(d) sell or lease the land forming such road or any part thereof, acquired for the purpose of such road or for any other purpose of this Ordinance:

Provided that no such public road shall discontinued, permanently closed or used for any other purposes without the previous sanction of the Government.

(2) In laying out, making, turning, diverting, widening, opening, enlarging or otherwise improving any public road, the Nagar Panchayat or the Council may, in accordance with the provisions of this Ordinance acquire land required for the carriage-way, footways and drains thereof.

112. (1) Where a Nagar Panchayat or a Council considers that in any road not being a public road, or in any part of such road within the municipality, it is necessary for the public health convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channelling, draining, lighting or cleaning thereof, the Nagar Panchayat or as the case may be, the Council may, by written notice, require the owner or owners of the several lands or buildings fronting or adjoining the said road or abutting thereon to carry out such work in such manner and within such time as may be specified in such notice.

(2) If the notice under sub-section (1) is not complied with, such work may be executed by the Nagar Panchayat or the Council, the expenses thereby incurred, shall be apportioned by the Nagar Panchayat or the Council, between such owners, and in such manner as it may think fit, regard being had, if it deems it necessary, to the amount and value of any work already done by the owners or occupiers of such lands and buildings.

(3) After such work has been carried out by the owner or by the owners or on the failure of the owners to do so, by the Nagar Panchayat or the Council at the expenses of such owners the road or part thereof in which such work has been done, may, and on the joint requisition of a majority of the said owners, shall be declared by public notice put up therein by the Nagar Panchayat or Council to be a public road.

113. (1) The Nagar Panchayat or as the case may be, the Council may, by public notice prohibit or regulate the driving, riding or leading of animals or vehicles of any particular kind along any public road or part of any such road.

Prohibition of use of public roads by a class of animals, carts, or vehicles.
(2) Any person who disobeys an order passed by the Nagar Panchayat,
or as the case may be, the Council under the provisions of sub-section
(1) shall be punishable with fine not exceeding two hundred rupees.

114. Any person, who without the permission of the Nagar Panchayat
or of the Council:—

(a) encroaches upon any public road or house gully or upon any
public drain, sewer, aqueduct, water-course or that by making any
excavation or by erecting any wall, fence, rail, post, projection or
other obstruction, or by depositing any movable property thereon, or

(b) takes up or alters the pavements or other materials, fences
or posts on any public road,

shall, for every such offence, be punishable with fine not exceeding two thousand
and five hundred rupees and with a further fine not exceeding two hundred
rupees for every day during which the encroachment continues after the
first conviction.

115. (1) Subject to the provisions of this Ordinance and the rules and
bye-laws made thereunder, no itinerant vendor or any other person shall
use or occupy any public road or place for the sale of articles or for the
exercise of any calling, or for setting up any booth or stall without the
permission of the Nagar Panchayat or of the Council.

(2) Whoever violate the provision of sub-section (1) shall be punishable
with fine which may extend to two thousand five hundred rupees and
with fine which may extend to five hundred rupees for every subsequent
offence after the first conviction.

116. The Nagar Panchayat or as the case may be, the Council may,
notwithstanding any proceedings which may have been started against
him under this Ordinance, issue a notice requiring any person to remove any
building which he may have built or any fence, rail, post or other obstruc-
tion or encroachment which he may have erected or stacked, on any part
of a public road, house-gully, public drain, sewer, aqueduct, water-course,
ghat or any land vested in the Nagar Panchayat or in the Council and,
if such person fails to comply with such requirement within forty-eight
hours of the receipt of the same, the Sub-Divisional Magistrate may, on
the application of the Nagar Panchayat or of the Council, order that such
obstruction or encroachment be removed and thereupon the Nagar Pan-
chayat or the Council may remove any such obstruction of encroach-
ment and the expenses thereby incurred shall be paid by the person who
erected or stacked the same.

117. (1) If the person who built, erected or stacked the said building,
fence, rail, post or other obstruction or encroachment referred to in
the preceding section is not known or cannot be found, the Nagar
Panchayat or as the case may be, the Council may cause a notice to be
posted in the neighbourhood of the said building, fence, rail, post or
other obstruction or encroachment requiring any person interested in
the same to remove it, and it shall not be necessary to name any person in
such requisition.

(2) If the said building, fence, rail, post or other obstruction or
encroachment be not removed in compliance with the requisition con-
tained in such notice within forty-eight hours of the posting of the
same, the Sub-Divisional Magistrate may, on the application of the Nagar Panchayat or as the case may be, the Council, order that such obstruction or encroachment be removed, and thereupon the Nagar Panchayat or as the case may be, the Council may remove any such obstruction or encroachment, and may recover the cost of such removal, by sale of the materials so removed.

(3) The surplus sale-proceeds, if any, shall be credited to the Municipal Fund, and may be paid on demand to any person who established his right to the satisfaction of the Nagar Panchayat or as the case may be, the Council or in any court of competent jurisdiction.

118. (1) The Nagar Panchayat or as the case may be, the Council may issue a notice requiring the owner or occupier of any building to remove or alter any projection, obstruction or encroachment erected or placed against or in front of such building, if the same overhangs the public road or just into or any way projects or encroaches upon, or is an obstruction to the safe and convenient passage along any public road or house-gully, or obstructs, or projects or encroaches into or upon any drain, sewer, or aqueduct in any public road or into upon any public water-course or ghat or any land in the Nagar Panchayat or the Council, as the case may be.

(2) If such owner or occupier fails to comply with such requisition within forty-eight hours of the receipt of the notice, or within such further time as the Nagar Panchayat or the Council may allow, the Sub-Divisional Magistrate may, on the application of Nagar Panchayat or of the Council, order that such projection, obstruction or encroachment be removed or altered; and thereupon the Nagar Panchayat or the Council may remove or alter such projection, obstruction or encroachment, and any reasonable expense incurred for the purposes of such removal or alteration shall be recovered from the defaulting owner or occupier.

(3) If the expense of removing or altering any such structure or fixture is paid by the occupier of the building, in any case in which the same was not erected by himself, he shall be entitled to deduct any reasonable expense incurred for the purposes of such removal or alteration from the rent payable by him to the owner of the building.

119. Notwithstanding anything contained in sections 116 and 118, a District Magistrate or a Sub-Divisional Magistrate shall on being so required by the Government, order any person responsible for any obstruction or encroachment or projection as specified in sections 116 and 118 to remove or alter such obstruction or encroachment or projection within a period not less than forty-eight hours and on non-compliance the District Magistrate or the Sub-Divisional Magistrate shall remove such obstruction or encroachment or projection and realise the expenses, thereby incurred from the person concerned as fine in a Criminal Court;
Provided that in case the person or persons responsible for such obstruction, encroachment or projecton is or are not known or cannot be found the procedure laid down in section 117 shall be followed.

120. Every order made by a Sub-Divisional or a District Magistrate under sections 116, 117, 118 or 119 shall be deemed to be an order made by him in the discharge of his judicial duty and the Nagar Panchayat or as the case may be, the Council shall be deemed to be person bound to execute such order within the meaning of the Judicial Officer's Protection Act, 1850.

121. The Nagar Panchayat or as the case may be, the Council may require the owner or occupier of any land within three days to trim or prune the hedges thereon bordering on any public road or drains and to cut and trim any trees or bamboos thereon overhanging and public road, drain, or tank, or any well used for drinking purpose or obstructing any public road or drain or causing or likely to cause damage to any public road or drain or any property of the Nagar Panchayat or of the Council or likely to cause damage to person using any public road or likely to foul the water of any well or tank.

122. Whoever, being the owner or occupier of any house on land within a municipality, fails to comply with a requisition issued by the Nagar Panchayat or as the case may be, the Council under the provisions of section 116, 117, 118 or 119 shall be punishable with fine not exceeding two thousand rupees, and with a further fine not exceeding one hundred rupees for every day during which the default is continued after the first conviction.

123. (1) The Nagar Panchayat or as case may be, the Council shall cause a name to be given to any public road and to be fixed in such place as it may think fit, and may also cause a number to be affixed to every building, and in like manner may, from time to time, cause the names and numbers to be altered.

(2) Any person who destroys, pulls down, defaces or alters the name or number put up by the Nagar Panchayat or as the case may be, the Council under sub-section (1) shall, for every such offence, be punishable with fine which may extend to two hundred rupees.

Building

124. (1) No person shall erect, materially alter or re-erect any building without the sanction of the Nagar Panchayat or the Council, as the case may be.

(2) Every person who intends to erect, materially alter or re-erect any building shall give notice in writing to the Nagar Panchayat or as the case may be, to the Council of such erection.

(3) When bye-laws have been framed under this Ordinance notice under subsection (2) shall be considered to be valid until such notice has complied with the provision of the bye-laws.
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6. In any case in which no by-laws have been made under this Ordinance or the Nagpur Panchayat or as the case may be, the Council may, within fourteen days of the receipt of the notice required by sub-section (2) of section 124 require a person who has given such notice to furnish, within one week of the receipt by him of the requisition, information on all or any of the matters specified in by-laws and the person erecting material alteration to which by-laws might have been made and in such case the notice shall not be valid until such information has been furnished.

126. (1) Within sixty days after the receipt of the notice, required by sub-section (2) of section 124, the Nagpur Panchayat or as the case may be, the Council may refuse to sanction the building or may sanction it either absolutely or subject to such modification as it may deem fit in respect of all or any of the matters specified in by-laws and the person erecting materially altering or re-erecting any such building as aforesaid shall comply with the sanction of the Nagpur Panchayat or as the case may be, the Council as granted in every particular.

(2) When within a period of sixty days, the Nagpur Panchayat or the Council fails, after the receipt of a valid notice, to make and deliver to the person who has given such notice, an order of sanction or refusal in respect thereof, it shall be deemed to have sanctioned the proposal building absolutely:

Provided that the time taken by the applicant in furnishing any information requisitioned by the Nagpur Panchayat or by the Council, if any, after the receipt of the valid notice shall not be counted in the period of sixty days referred to in this sub-section.

Explanation.—The Nagpur Panchayat or the Council may refuse to sanction the erection, material alteration or re-erection of any building eared or circuit on the grounds affecting the particular building or in pursuance of any by-law adopted by the Nagpur Panchayat or by the Council at a meeting restricting the erection or re-erection of building or any increase or diminishes the height or area covered by, or the capacity of the building, or of any room in the building.
in which there is any dispute between the Nagar Panchayat or as the case may be, the Council and the applicant as to the title of the land on which it is proposed to erect the building until such dispute is decided.

127. A permission to erect, materially alter or re-erect building granted under this Chapter or deemed to have been given by the Nagar Panchayat or as the case may be, the Council, shall unless it is renewed on an application made to the Nagar Panchayat or the Council for this purpose continue only for one year after the date on which it is granted.

128. Whoever erects, materially alters or re-erecits or commences to erect, materially alter or re-erect any building without the previous sanction of the Nagar Panchayat or as the case may be, the Council or in contravention of any directions given by the Nagar Panchayat or as the case may be, the Council granting sanction under section 123 shall be liable to a fine not exceeding one thousand rupees for every such offence, and to a further fine not exceeding two hundred rupees for each day during which the offence is continued after his first conviction.

129. (1) If the construction of a building is started, or if a building is materially altered or erected—

(a) without sanction as required by section 126 (1); or
(b) without notice as required by section 124 (2); or
(c) when sanction has been refused; or
(d) in contravention of the terms of any sanction granted; or
(e) when the sanction has lapsed; or
(f) in contravention of any bye-laws made under clause (vi) of sub-section (1) of section 209, Nagar Panchayat or as the case may be, or the Council may, by notice to be delivered within a reasonable time, require the building to be altered or demolished as it may deem necessary, within the period of thirty days from the date of the service of such notice:

Provided that the Nagar Panchayat or as the case may be, or the Council may instead of requiring the alteration or demolition of any such building accept by way of composition such sum as it may deem reasonable.

(2) Any person who fails to comply with a requisition issued by the Nagar Panchayat or as the case may be, or the Council under the provisions of sub-section (1) shall be liable to a fine not exceeding five hundred rupees and to a further fine not exceeding one hundred rupees for every day during which the person continues to make such default after service on him of such requisition.

130. The Nagar Panchayat or as the case may be, the Council by written notice may require any person who has made any external roof or wall with thatch mats, leaves or other inflammable materials and in contravention of bye-laws made under section 209 to remove or alter such roof or wall within a period to be specified in the notice.
131. The Nagar Panchayat or as the case may be, the Council may, attach or cause to be attached to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto or inconvenience.

132. (1) If a building, or a room in a building is in the opinion of the Nagar Panchayat or as the case may be, the Council unfit for human habitation in consequence of the want of proper means of drains or ventilation or otherwise, the Nagar Panchayat or as the case may be, the Council may by notice, prohibit the owner or occupier thereof from using the building or room for human habitation or suffering it to be so used whether absolutely or not unless, within a time to be specified in the notice, he effects such alteration therein as is specified in the notice.

(2) Upon failure of a person to whom notice is issued under sub-section (1) to comply therewith, the Nagar Panchayat or as the case may be, the Council may require by further notice the demolition of the building or room.

(3) Any person who uses a building or room or suffers to be used contrary to the provision of sub-section (1) shall be punishable with fine not exceeding five hundred rupees, and with a further fine not exceeding one hundred rupees for every day during which the offence is continued after the first conviction.

133. (1) A Nagar Panchayat or as the case may be, a Council may require by notice the owner or occupier of any land or building—

(a) to demolish, secure or repair within eight days from the date of service of the notice in such manner as it deems necessary any building, portion of a building, wall or other structure or anything affixed thereto which appears to it to be in ruinous condition or dangerous to inmates or any, passers-by or other property, or

(b) to repair, secure or enclose, within eight days from the date of service of the notice, in such manner as it deems necessary any tank, well or excavation belonging to such owner or in the possession of such occupier which appear to the Nagar Panchayat or the Council to be dangerous to persons by reason of its situation, want of repairs or other such circumstances.

(2) Where it appears to the Nagar Panchayat or the Council that immediate action is necessary for the purpose of preventing imminent danger to any person or property, it shall be the duty of the Nagar Panchayat or as the case may be, of the Council to take immediate action and recover the expense so incurred from the owner or occupier of the building or the owner or occupier of the land to which such building or other structure or anything is affixed.

134. Whenever it appears to the Nagar Panchayat or Council that any building by reason of abandonment or disputed ownership or other cause is unattractive or by reason of having fallen into ruins, affords facilities for the commission of a nuisance, by disorderly persons or for the harboring of strays or other animals, the Nagar Panchayat or the Council may require the owner of such building or the land to which such building is attached, to properly secure the same, or to remove or level such ruins, as the case may require.
135. Any owner or occupier of a house or land who fails to comply with requisition issued by the Nagar Panchayat or the Council under the provisions of sections 133 and 134, shall be liable, for every such default, to a penalty not exceeding one thousand rupees, and to a further penalty not exceeding two hundred rupees, for every day during which the default is continued after the expiry of eight days from the date of service on him of such requisition.

136. Subject to any other provision in this Ordinance as regards compensation, no compensations shall be claimable by an owner for any damage which he may sustain in consequence of the prohibition of the erection of any building.

Powers connected with drains

137. The Nagar Panchayat or the Council may, by notice, require the owner or occupier of any land within such time as the Nagar Panchayat or the Council may fix to cut and remove any tree or bamboos or branches thereof, or eradicate and destroy vegetation and undergrowth which may appear to the Nagar Panchayat or the Council to be insanitary, injurious to health or offensive to the neighbourhood or to be causing or likely to cause damage or destruction to any crop growing or to be grown, or to be obstruction or likely to obstruct the free passage or men or animals along a public road, or of any boat of steam vessel along a public waterway.

138. Whenever any land, being private property or within any private enclosure, appears to the Nagar Panchayat or the Council by want of drainage to be in a state injurious to health or offensive to the neighbourhood, or by reason of inequalities of a surface to afford facilities for the commission of a nuisance, the Nagar Panchayat or the Council may require the owner or the occupier of such land or both within fifteen days, to drain such land or level surface:

Provided that, if for the purpose of effecting any drainage under this section it shall be necessary to acquire any land not being the property of the person who is required to drain his land, or to pay compensation to any other person, the Nagar Panchayat or as the case may be, the Council shall provide such land and pay such compensation.

139. (1) The Nagar Panchayat or the Council may require the owner or occupier of any land within eight days or such longer period as the Nagar Panchayat or the Council may fix, either to re-excavate or at his option fill up with suitable material or to cleanse any well, water-course, private tank or pool therein, and to drain off and remove any waste or stagnant water which may appear to be injurious to health or offensive to the neighbourhood:

Provided that if, for the purpose of effecting any drainage under this section, it shall be necessary to acquire any land not being the property of the person who is required to drain his land or to pay compensation to any other person, Nagar Panchayat or as the case may be, the Council shall provide such land and pay such compensation.
(2) If under the provisions of this Ordinance the Nagar Panchayat or the Council execute the work of such re-excavation or filling up with suitable material, it may take possession of the tank or pool or the sites of such tank or pool and retain such possession and turn the same to profitable account until the expenses thereby incurred shall have been realised.

140. If any well, tank or other excavation, whether on public or private ground, be, for want of sufficient repair or protection, dangerous to passers-by, the Nagar Panchayat or the Council may be the Council shall forthwith require by notice such owner or occupier, or both within eight days, properly to secure or protect such well, tank or other excavation; and if after the said period the work is not executed, the Nagar Panchayat or the Council, as the case may be, shall cause a temporary hoarding to be put up for the protection of passers-by and recover the expenses so incurred from the owner or occupier or the owners and occupiers of the land on which such tank, well or other excavation is situated.

141. Any owner or occupier of a house or land who fails to comply with a requisition issued by Nagar Panchayat or the Council under the provisions of section 137, 138, 139 or 140 shall be punishable with fine not exceeding one thousand rupees, and with a further fine not exceeding two hundred rupees for every day during which the default is continued after the expiry of eight days from the date of service on him of such requisition.

142. If the Director of Medical Health and Family Planning Services, public Health Officer of the Government or Health Officer of the municipality or such other Medical Officer of the Medical Department of Manipur as may be prescribed, certifies that the cultivation of any description of crops, or the use of any kind of manure, or the irrigation of land in any specified manner:

(a) in any place within the limit of the municipality, is injurious to the health of person dwelling in the neighbourhood; or

(b) in any place within or without the limits of the municipality is likely to contaminate the water supply of the municipality or otherwise renders it unfit for drinking purposes the Government, on receipt of an application from the municipality by public notice, prohibit the cultivation of such crop, the use of manure or the use of the method of irrigation so certified to be injurious, or impose such conditions with respect thereto as may prevent the injury.

143. The municipality may provide and maintain in sufficient number and in proper situation, public latrines and urinals for the separate use of each sex, and shall cause the same to be kept in proper order and to be properly cleansed.

144. (f) If any person, without the written permission of the municipality first obtained, marks or causes to be made, or alters or causes to be altered, any drain leading into any sewer, drain, waste-course, road or land vested in the municipality, the municipality may cause such branch drain to be demolished, altered, made or otherwise dealt with as it may deem fit, and the expenses thereby incurred shall be paid by such person, making or altering such branch drain.

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(2) The person so making or altering such branch drain shall also be liable for every such offence to a fine not exceeding five hundred rupees.

145. Who ever causes or allows the water of any sink, sewer, latrine, urinal, cess pool, or any other offensive matter belonging to him or being on his land to run, drain or be thrown or put upon any public road, or causes or allows any offensive matter to run, drain or be thrown into a surface drain or any public road shall be liable to a fine not exceeding two hundred rupees and a daily fine not exceeding fifty rupees during which the offence is continued.

146. If any land, near a sewer, drain or other outlet into which such land may, in the opinion of the Nagar Panchayat or as the case may be, the Council, be drained, is not drained to the satisfaction of the Nagar Panchayat or as the case may be, may require the owner within one month to drain the said land into such sewer, drain or outlet.

147. Any person who fails to comply with a requisition issued by the Nagar Panchayat or, as the case may be, by the Council under the provisions of section 146 shall be liable for every such offence to a fine not exceeding two hundred rupees and a further fine not exceeding fifty rupees for every day during which he shall continue to make such defaults after service on him of such requisition.

Scavenging and cleaning

148. (1) The Nagar Panchayat or, as the case may be, the Council shall provide for the removal—

(a) of sewage, rubbish and offensive matter from all public latrines, urinals and drains and from all public road and all other property vested in the municipality, and

(b) in any municipality wherein a latrine tax has been imposed under sub-section (2) of section 75 of sewage and offensive matter from all private latrines, privies, urinals, cesspools and compounds.

149. A municipality may also introduce a sewerage scheme for removal of sewage by flushing with water through underground closed sewers. When a Municipality introduces such a scheme in its area the municipality may, where it is felt necessary, with the approval of the State Government, levy additional latrine and water taxes to meet the cost and maintenance of the such scheme.

150. (1) The Municipality may, from time to time, by an order published in the prescribed manner, appoint the hour within which sewage and offensive matter may be moved, the manner in which the same shall be moved, as also the hours within which only every occupier of any house or land may place rubbish in a receptacle provided by the municipality on or by the side of the public road.

(2) The Municipality may provide places convenient for the deposit of sewage and offensive matter and require the occupiers of houses to cause the same to be deposited daily or at other stated intervals in such places, and may remove the same at the expense of the occupiers from any house if the occupier thereof fails to do so.
151. Any person who places or allows to place rubbish on a public road or in a receptacle provided by the municipality at a time other than the time appointed by the municipality under sub-section (1) of section 150 shall, for every such offence, be punishable with fine not exceeding five hundred rupees.

Penalty for placing rubbish on public road.

152. Any occupier of a house on or near a public road who keeps or allows to be kept, for more than twenty four hours, or for more than such shorter time as may be appointed by the municipality, otherwise than in some proper receptacle, any house, ashes, sewage or any noxious or offensive matter in or upon such house, or in any out house, yard or ground attached to and occupied with the house or suffers such receptacle to be in a filthy or noxious state, or neglects to employ means to cleanse the same shall, be punishable with fine not exceeding five hundred rupees.

Penalty for occupier for not removing filth, etc.

153. Any person who, without the permission of the municipality throws or puts, or permits his servants to throw or put any sewage or offensive matter on any public road, or who throws or puts or permits his servants to throw or put any earth, rubbish, sewage or offensive matter into any drain communicating therewith shall be punishable with fine not exceeding five hundred rupees.

Penalty for throwing offensive matter on public roads, etc.

154. All servants of the Nagar Panchayat, or as the case may be, the Council employed for the purposes mentioned in section 163 may, within such hours as may be fixed by the Nagar Panchayat or the Council, enter any premises, of which the occupier or owner is liable to pay latrine tax and do all things necessary for the performance of their duties.

Water supply and drainage system

155. (1) Every Nagar Panchayat or as the case may be, the Council shall provide or arrange for the provision of a sufficient supply of drinking water for the inhabitants of the areas within its jurisdiction.

Supply of drinking water.

(2) Every Nagar Panchayat or as the case may be, the Council shall provide sufficient and regular supply of drinking water fit for human consumption or for domestic purposes within the jurisdiction of the Nagar Panchayat or of the Council.

156. The municipality may, by notice, require an owner or occupier on whose land a drain, privy, latrine, urinal, cesspool or other receptacle for filth or refuse exists as is likely to endanger the purity of water, a spring, well, tank, reservoir or other source from which water is, or is likely to be taken for the purpose of drinking, or may further take such steps as he deems fit to prevent the removal of water therewith.

157. In the event of a Municipality, or any part thereof, being visited with an outbreak of cholera or other infectious disease notified in this behalf, the owner or occupier may during the continuance of the epidemic, without notice and at any time, inspect and disinfect any well, tank, or other place from which water is, or is likely to be taken for the purpose of drinking and may further take such steps as he deems fit to prevent the removal of water therewith.

Removal of latrines, etc., near any source of water supply.

Owner or occupier to take steps prevent spread of infectious disease.
158. (1) Where any road or way has been made or any building, wall or other structure has been erected or any tree has been planted over a public drain, culvert or a water-work vested in the municipality, without the permission in writing of the municipality, the municipality may, without prejudice to the generality of the other provisions of this Ordinance:

(a) by notice require the person who has made the road, erected the structure or planted the tree, or the owner or occupier of the land on which, the road has been made, structure erected or tree planted, to remove or deal in any other way as the municipality thinks fit with the road, structure or tree; or

(b) itself remove or deal in any other way as it thinks fit with the road, structure or tree.

(2) Any expense incurred by a municipality for action taken under clause (b) of sub-section (1) shall be recoverable from the person by whom the road or way made, structure erected or tree planted.

Burial and burning ground for disposal of corpses

159. (1) The Municipality may, from time to time, out of the Municipal fund, provide suitable places to be used as burial or burning grounds either within or without the limits of the Municipality and may charge such fees on the persons using the placing as may be fixed by bye-laws which may be framed in that behalf.

(2) The municipality may, by public notice, order any burial or burning ground situated within Municipal limits or any Municipal burial or burning ground outside such limits which is certified by the Director of Medical, Health and Family Planning Service or a Public Health Officer of the State Government or a Health Officer of the municipality to be dangerous to the health of persons living in the neighbourhood, to be closed, from a date to be specified in the notice, and shall in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(3) If any person, without the permission of the municipality bury or burn any corpse, or permit, to be buried or burnt, any corpse at any place which is not any burial or burning ground made or formed according to the provisions of this section, or after the date fixed thereunder for closing the same, he shall be punishable with fine which may extend to five hundred rupees.

(4) Private burial places may be exempted from the order subject to such conditions as the municipality may impose in this behalf:

Provided that the limits of such burial places are sufficiently defined and that they shall only be used for the burial of members of the family of the owners thereof.

(5) No private burial or burning ground shall be made or formed within the municipality after the commencement of this Ordinance, without the permission in writing of the municipality.

160. The municipality may from time to time, out of the municipal fund, provide for the burial or burning of paupers and unclaimed dead bodies, free of charge, within the limits of the Municipality or otherwise arrange to dispose of as it thinks fit.
161. After the expiration of not less than twenty-four hours from the death of any person, the Nagar Panchayat or as the case may be, Council may cause the corpse of such person to be burnt or buried, and the expenses thereby incurred shall be recoverable as a debt due from the estate of such person. In every such case, the corpse shall be disposed of, so far as may be possible in manner consistent with the religious tenets of the deceased.

CHAPTER XI

OTHER POWERS AND PENALTIES

Markets and slaughter houses

162. A municipality may establish and maintain markets at suitable places of the Municipality for the convenience of the people.

163. If any officer specially empowered in this behalf by the Nagar Panchayat or by the Council is satisfied that any person occupying any stall or space in any Municipal market is in unauthorized occupation of the stall or space or continues to occupy the stall or space after authority to occupy has ceased, he may, with the previous sanction of the Nagar Panchayat or of the Council, require such person to vacate the stall or space within such time as may be mentioned in the requisition and such person may, in addition to any penalty to which he may be liable under this Ordinance, be summarily removed from the stall or space.

164. (1) The Nagar Panchayat or, as the case may be, the Council may, and when required by the Government shall fix places with the approval of the State Government for slaughter of animals for sale, and the Nagar Panchayat or Council may grant and withdraw licence for the use of such premises, or, if they vest in the Nagar Panchayat or Council, may charge rent for fees of the use of the places.

(2) When any such premises have been fixed, no person shall slaughter any such animal for sale within the Municipal area at any other place.

(3) Any person who slaughters for sale any animals at any place within the Municipal area other than the one fixed by the Nagar Panchayat or as the case may be, the Council under this section shall be punishable with fine which may extend to five hundred rupees.

165. A Nagar Panchayat or as the case may be, the Council shall arrange for inspection of the animal by a Veterinary Surgeon or a competent person before the animal is killed and may also arrange for inspection of the meat and organs for the purpose of certification, as may be laid down by bye-laws of the meat for use as food.

166. No person shall carry on the profession of a butcher except under a licence from the municipality.

Nuisances from certain trades, professions, etc.

167. (1) If it is shown to the satisfaction of a Nagar Panchayat or of a Council that any building or place within the limits of the Municipality which any person uses or intends to use as a factory or other place for certain trades, professions, etc., is a nuisance, the Council may, after giving notice to such person, cause such building or place to be demolished or the nuisance to be removed.
of business for the manufacture, storage, treatment or disposal of any article, by reason of such use, or by reason of such intended use, occasions or is likely to cause a public nuisance, the Nagar Panchayat or the Council may at its option require by notice the owner or occupier of the building or place—

(a) to desist or refrain, as the case may be, from using, or allowing to be used, the building or place for such purpose, or

(b) only to use, or allow to be used, the building or place for such purpose under such conditions or after such structural alterations as the Nagar Panchayat or the Council imposes or prescribes in the notice with the object of rendering the use of the building or place for such purpose free from objection.

(2) Whoever, after receiving a notice given under sub-section (1), uses or allows to be used any building or place in contravention of the notice shall be punishable with fine which may extend to four hundred rupees for every day on which he so uses or allows to be used the place or building after the date of the first conviction.

168. (1) Within such local limits as may be fixed by the Municipality no place shall be used without a licence from the Municipality which shall be renewable annually, for any of the following purposes, namely:

(a) melting tallow;

(b) boiling offal or blood;

(c) skinning or disembowelling animal;

(d) the manufacture of bricks, pottery, tiles or lime in a klin, pąja or lamp or by any other similar method;

(e) as a soap-house, oil-boiling house, dyeing house;

(f) as tannery, slaughter-house;

(g) as a manufactory or place of business from which offensive or unwholesome odour may arise;

(h) as a yard or depot for hay, straw, bamboo, thatching grass, jute or other dangerously inflammable material for the purpose of any trade;

(i) any store-house for kerosene, petroleum napthamcoal-tar or any inflammable oil or wholesale stock of matches exceeding one hundred gross;

(j) as a shop for the sale of meat;

(k) as a place for the storage of rags or bones, or both;

(l) tea stall;

(m) sweetmeat stall;

(n) hotel or eating house;

(o) aerated water;

(p) bakery, including biscuit factory.
(2) Such licence shall not be withheld unless the municipality has reason to believe that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in or frequenting the neighbourhood.

(3) The municipality may, subject to such restrictions, if any, as it may impose, extend the provisions of this section to yards or depots for trade in coal, coke, timber or wood.

(4) The grant of a licence for the purposes mentioned in clause (i) of sub-section (1) shall be consistent with the provision of the Petroleum Act, 1934 and no such licence shall be granted unless the said provisions have been complied with by the applicant for the licence.

169. (1) No place within a Municipality shall be kept open for the purposes of regular gain or otherwise by means of public cinematographic exhibitions, dramatic performances, circuses, variety shows, or for purposes of public resort for similar recreations or amusements unless a licence has been granted therefor by the municipality, which licence shall be annually renewable and in accordance with such conditions as the municipality, subject to rules, may deem fit to impose:

Provided that such conditions shall not be inconsistent with the terms of any licence which may be required for such place under any other Act.

(2) No place within the municipality shall be used for the purposes of public cinematographic, performance, circus, variety shows, or as a place of public resort for similar recreations or amusements, otherwise than for the purpose of regular gain, unless a licence has been granted for such purpose by the municipality and in accordance with such conditions as the municipality, subject to rules, may deem fit to impose:

Provided that such conditions shall not be inconsistent with the terms of any licence which may be required for such places under any other Act:

Provided further that this sub-section shall not apply to private amateur performances or to performances held wholly for the benefit of charity, in any such place.
(3) If within a period of three months following the receipt of an application for licence under sub-section (1) or sub-section (2) the Nagar Panchayat or the Council at a meeting has not passed order thereon, either granting or refusing a licence, it shall be deemed to have granted the licence.

170. Subject to the provisions of section 196, any licensee granted under section 169 by the municipality may, at any time, be suspended or revoked by it, if any of the restriction, limitations or conditions attached to the licence, be evaded or infringed by the grantee or if the grantee be convicted of a breach of any of the provisions of this Ordinance or of any rule or bye-law made thereunder in any matter to which such licence relates or if the grantee has obtained the same by misrepresentation or fraud.

171. Every order granting, refusing, suspending, revoking, or modifying a licence under section 169 or section 170, as the case may be, shall be, in writing, shall state the ground on which it proceeds, shall be published on the notice board of the office of the Nagar Panchayat or the Council and shall also be served on the owner of the premises concerned within fourteen days of the order.

172. (1) The Nagar Panchayat or, as the case may be, the Council may, with a view to preventing the spread of any infectious or contagious disease, order that for a specified time, any market, tea-stall or restaurant, hotel or lodging-house within the Municipality shall be closed, or forbid any persons to attend any such market, tea-stall or restaurant, hotel or lodging-house.

(2) Such order shall be notified in such manner and at such places as the Nagar Panchayat or the Council may direct, and notice thereof shall be served on the owner, occupier or vendor of the market or the keeper of the hotel or lodging-house, tea-stall or restaurant.

(3) After complying with the notice to the owner or occupier, or vendor of the market or the keeper of the hotel or lodging-house, tea-stall or restaurant or any person interested may appeal to the Deputy Commissioner, and if he considers the notice to be unreasonable, the order of the Deputy Commissioner shall be final.

(4) When an order has been notified under sub-section (2) and has not been set aside under sub-section (3) any owner, occupier or vendor of a market or the keeper of hotel or lodging house, tea-stall or restaurant who neglects to close the market, hotel or lodging-house, tea-stall or restaurant shall be liable to a fine which may extend to five thousand rupees and any person who attends such market, hotel or lodging-house, tea-stall or restaurant in contravention of the terms of the order shall be liable to fine which may extend to five hundred rupees.

Infectious or contagious diseases

173. Whoever—

(a) being a medical practitioner and in the course of such practice becoming cognizant of the existence of cholera, plague, smallpox or any other infectious disease, shall be notified in this behalf by the Government in any dwelling house other than a public hospital in the Municipality, or
(b) being the owner or occupier of such dwelling house, and
being cognizant of the existence of any such infectious disease therein,
or

(c) being the person in charge of, or in attendance, on a person
suffering from any such infectious disease in such dwelling house,
and being cognizant of the existence of the disease therein,
can give information within twenty-four hours of becoming so cognizant or gives false information to such officer as the Nagar Panchayat or as the case may be, the Council may appoint in his behalf respecting the existence of such disease shall be punishable with fine which may extend to five hundred rupees.

174. (1) If the Nagar Panchayat or as the case may be, the Council is of opinion that the cleansing or disinfecting of a building or any part thereof or of any article therein, which is likely to retain infection, will tend to prevent or check the spread of any disease, it may, by notice require the owner or occupier to cleanse or disinfect the same in the manner and within the time prescribed in such notice.

(2) If—

(a) within the time specified as aforesaid from the receipt of the notice the person on whom the notice is served to have the building or part thereof or the article disinfected, or

(b) the occupier or owner, as the case may be, gives his consent, the Nagar Panchayat or the Council may, at the cost of such owner or occupier, cause the building or part thereof and article to be cleansed and disinfected:

Provided that the Nagar Panchayat or the Council may, in its discretion pay the whole or any part of such cost.

175. Every person knowingly letting a house or other building or part of a house or building in which any person suffering from an infectious or contagious disease, had lived without having such house or other building or part thereof and all articles therein liable to retain infection, disinfected thereafter to the satisfaction of the Nagar Panchayat or the Council, shall be punishable with fine not exceeding two thousand rupees.

Explanation.—For the purpose of this section a hotel or lodging-house keeper shall be deemed to let part of his house to any person admitted as a guest into his hotel or lodging-house.

176. The Nagar Panchayat or as the case may be, the Council may authorise any officer to enter, at any time between sunrise and sunset, after three hours notice into any building or premises in which any infectious or contagious disease is reported or suspected to exist, for the purposes of inspecting such building or premises on the basis of the report of the officer. The Nagar Panchayat or the Council will have the power to declare that a person is suffering from contagious disease and that house is infectious.
177. In any municipality when any person suffering from any infectious disease is found to be—

(a) without proper lodging or accommodation, or

(b) living in a Serai or other public hostel, or

(c) living in a room or house which neither he nor any one, of whom he is a dependent, either owns or pays rent for,

the Nagar Panchayat or as the case may be, the Council, by any persons authorised by it in this behalf may, on the advice of an Assistant Surgeon, remove the patient to any hospital or place at which persons suffering from such diseases are received for medical treatment and may do anything necessary for such removal.

Park, playground and open space

178. The Municipality may provide open spaces, parks, playgrounds, common swimming pools and amenities for the use and enjoyment of the people and may frame bye-laws regulating their use.

179. Every Municipality shall, in regard to the establishment, maintenance and management of pounds, perform such function as may be transferred to it by notification under section 31 of the Cattle Trespass Act. 1871 and lease out pound, when so transferred, according to rules framed under this section.

CHAPTER XII

Procedure

180. (1) Every notice, bill, form, summons or notice of demand under this Ordinance, may—

(a) be served personally on or presented to the person to whom the same is addressed; or

(b) if it cannot be so served, presented or delivered, be affixed or some conspicuous part of his place of abode or of the land, building or other thing in respect of which the notice, bill, form, summons or notice of demand is intended to be served; or

(c) be sent by post in registered cover.

(2) Every such notice, bill, form, summons or notice of demand shall be signed by or bear a facsimile signature of Chairperson, Vice-Chairperson or any other officer authorised by the Chairperson in that behalf.
181. When any notice under this Ordinance requires any act to be done for which no time is fixed by this Ordinance, the Nagar Panchayat or Council shall fix a reasonable time for doing the same.

182. When any notice is required to be given to the owner or to the occupier of any land, or both, such notice addressed to the owner or occupier or both, as the case may require, may be served on the occupier of such land, or otherwise in the manner mentioned in section 180.

Provided that when the owner and his place of abode are known to the Nagar Panchayat or to the Council or other authorities issuing the notice they shall, if such place of abode be within the limits of their authority, cause such notice to be served on such owner, or left with some adult member or servant of his family; and if the place of abode of the owner be not within such limits, they shall send every such notice by post in a registered cover addressed to his place of abode and such service shall be deemed to be good service of the notice:

Provided further that when the name of the owner or occupier or of both is not known it shall be sufficient to designate him or them as “the owner” or “the occupier” of the land in respect of which the notice is served.

183. (1) Whenever it is provided in this Ordinance that the Nagar Panchayat or the Council may require the owner or the occupiers, of any land or both to execute any work or to do anything, such requisition shall be made, as far as possible, by a notice to be served as provided in sections 180 and 182 on every owner or occupier who is required to execute such work or to do such thing; but if there be any doubt as to the persons who are owners or occupiers, such requisition may be made by a notice to be affixed or posted upon or near the spot at which the work is required to be executed or the thing done requiring the owners or the occupiers, of any land or both, to execute such notice. It shall be necessary to name the owners or occupiers.

(2) Every such requisition shall give notice to the persons to whom it is addressed that, if they fail to comply with the requisition or prefer an objection against such requisition as provided hereafter in section 184 the municipality may enter upon the land and cause the required work to be executed; or the required thing to be done; and that in such case the expenses incurred thereby shall be recovered from the persons who are required in such requisition to execute such work or do such thing.

184. Any person who is required by such requisition to execute any work or to do anything may instead of executing the work or doing the thing required, prefer an objection in writing to the municipality against such requisition within fifteen days of the service of the notice affixing or posting up of the notification containing the requisition, or if the time within which he is required to comply with the requisition be less than fifteen days, then within such less time.
185. If the objector alleges that the cost of executing the work or of doing the thing required may exceed three thousand rupees, such objection shall be heard and disposed of by the municipality at a meeting, unless the Chairperson or Vice-Chairperson shall certify that such cost may not exceed three thousand rupees, in which case the objection shall be heard and disposed of by the Chairperson and the Vice-Chairperson:

Provided that in any case in which the Chairperson or the Vice-Chairperson shall have certified his opinion and the objection shall in consequence thereof have been heard and disposed of by the Chairperson and the Vice-Chairperson, the person making the objection may, if the requisition made upon him is not withdrawn on the hearing of his objection, pay in the said sum of three thousand rupees to the municipality as the cost of executing the work or doing the thing required, whereupon such person shall be relieved of all further liability and obligation, in respect of executing the work or doing the thing required and in respect of paying the expenses thereof and the municipality itself shall execute such work or do such thing, and shall exercise all powers necessary therefor.

186. The Chairperson or the Vice-Chairperson, or the Nagar Panchayat or the Council as the case may be, shall after hearing the objection and making any enquiry which they may deem necessary, record an order withdrawing, modifying, or making absolute the requisition against which the objection is preferred and if such order does not withdraw the requisition it shall specify the time within which the requisition shall be carried out, which shall not be less than the shortest time which might have been mentioned in the original requisition under this Ordinance.

187. If the person or persons required to execute the work or to do the thing fail, within the time specified in any requisition as aforesaid, to begin to execute such work or to do such thing, and thereafter diligently to execute the same to the satisfaction of the municipality until it is completed, the municipality or any person authorised by it in that behalf, may, after giving forty-eight hours notice of its intention by a notification to be affixed or posted upon or near the spot, enter upon the land and perform all necessary acts for the execution of the work or doing of the thing required; and the expenses thereby incurred shall be paid by the owners or by the occupiers, if such requisition was addressed to the owners or to the occupiers, as the case may be, and by the owners and the occupiers, if such requisition was addressed to the owners and the occupiers.

188. (1) Whenever any expenses incurred by the municipality are to be paid by the owners of any land as provided in section 187 the municipality may, if there be more than one owner, apportion the said expenses among such of the owners as are known in such manner as the municipality may deem fit.

(2) Whenever any such expenses are to be paid by the occupiers of any land as provided in section 187 the municipality may, if there be
more than one occupier, apportion the said expenses among such of the occupiers as are known in such manner as the municipality may deem fit.

189. Whenever any expenses incurred by the municipality are to be paid by the owners and occupiers of any land, as provided in section 187 the municipality may apportion the said expenses among the said owners and occupiers or such of them as are known in such manner as the municipality may deem fit.

190. Whenever any works or alterations and improvements, of which the municipality is authorised by this Ordinance to require the execution, are executed by the occupier on the requisition of the municipality, or are executed by the municipality and cost thereof is recovered from the occupier, the cost thereof may, if the municipality certify that such cost ought to be borne by the owner, be deducted by such occupier from the next and following payment of his rent due or becoming due to such owner, or may be recovered by him in any court of competent jurisdiction.

191. If the municipality under the provisions of this Ordinance shall have caused any repairs to be made to any house or other structure and if such house or other structure be unoccupied, the municipality may enter into possession of the same, and may retain possession thereof until the sum expended by it on the repairs be paid to it.

192. (1) The materials of anything which shall have been pulled down or removed under the provisions of section 183 may be sold by the municipality, and the proceeds of such sale shall be adjusted to the payment of the expenses incurred.

(2) The surplus sale-proceeds, if any, shall be credited to the Municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the municipality or in a court of competent jurisdiction.

193. (1) Unless otherwise expressly provided in this Ordinance a Court shall take cognizance of any offence under this Ordinance or under any rules or bye-laws made thereunder except on the complaint of the municipality or some person authorised by the municipality by general or special order in this behalf.

(2) No Court inferior to that of a Magistrate of the first class shall try any of the offences specified in sub-section (1).

194. (1) The offences under this Ordinance shall be compoundable:

Provided that no offence, arising from the failure to comply with a written notice given by or on behalf of, the Nagar Panchayat or the Council as the case may be, shall be compoundable unless the notice has been supplied.

Apportionment among owners and occupiers.

Obligations of occupiers to execute works, and recover costs from owners.

Power to enter upon, possession of houses so repaired.

Sale of materials of houses pulled down.

Cognizance.

Offences under the Ordinance compoundable.
(2) Sums paid by way of composition under this section shall be credited to the Municipal Fund.

195. Every police officer shall give immediate information to the municipality of an offence coming to his knowledge which has been committed against this Ordinance or against any rules or bye-laws made thereunder, and shall be bound to assist all members, officers and employees of the municipality in the exercise of their lawful duty.

196. Any person aggrieved by an order of a municipality refusing, revoking or suspending licence or permission required under this Ordinance may, notwithstanding anything contained elsewhere in this Ordinance, within thirty days from the date of refusal, revoking or suspension, appeal to the State Government or an officer authorised by the Government in that behalf whose decision shall be final and shall not be questioned in any Court.

197. (1) Any person aggrieved—

(a) by the refusal of the Nagar Panchayat or Council under section 126 to sanction the erection, re-erection or material alteration of any building; or

(b) by a notice from the Nagar Panchayat or Council under section 112 requiring a road to be drained, levelled, paved, flagged, or provided with proper means of lighting or under section 129 requiring the alteration or demolition of a building; or

(c) by any order of the Nagar Panchayat or Council under the powers conferred upon it by section 132 or by any order made by the Nagar Panchayat or by the Council under bye-law framed under clause (vii) of sub-section (1) of section 209, may, within thirty days from the date of such refusal notice, order, appeal to the Deputy Commissioner.

(2) No such refusal, notice, or order shall be questioned otherwise than by such an appeal.

(3) The decision of the Deputy Commissioner shall be final.

198. No appeal under section 196 or section 197 shall be dismissed or allowed partly or wholly, unless reasonable opportunity of showing cause or being heard has been given to the parties.

199. (1) When a dispute arises regarding the amount of compensation which the municipality is required by this Ordinance to pay, it shall be settled in such manner as the parties may agree, in default of agreement, by the Deputy Commissioner upon application made to him by the municipality or the person claiming compensation.
(2) If the municipality or the person claiming compensation is not satisfied with the decision of the Deputy Commissioner, it or he shall have a right to require the Deputy Commissioner to make a reference to the District Judge, in accordance with the provisions of section 18 of the Land Acquisition Act, 1894.

200. No suit shall be maintainable against Nagar Panchayat or Council or any of its committees, or any officer or employee, or any person acting under or in accordance with, the direction of the Nagar Panchayat or of the Council or any of its committees or any municipal officer or servant, in respect of anything in good faith done or intended to be done under this Ordinance or under any rule or bye-law made thereunder.

201. (1) No suit or other legal proceeding, not being a criminal proceeding, shall be instituted against any Nagar Panchayat or Council, or any of its officers in respect of any act purporting to be done by such officer in his official capacity, or any person acting under its direction, until the expiry of two months next after notice in writing has been delivered to or left at the office of—

(a) in the case of a suit against the Nagar Panchayat or Council, the Executive Officer;

(b) in the case of an officer, the officer against whom the suit or proceeding is instituted and, in the case of any person acting under its direction, delivered to him at his place of residence or business, stating the cause of action, the name, description and place of residence of the plaintiff or the petitioner and the relief which he claims; and the plaint or the petition shall contain a statement that such notice has been so delivered or left.

Explanation.—In this section "Officer" includes the Chairperson and the Vice-Chairperson.

(2) Every such action shall be commenced within three months next after the arising of the cause of action, and not afterwards.

CHAPTER XIII

CONTROL

202. The Deputy Commissioner or the Director or any officer so empowered by the Government in this behalf may at any time—

(1) enter into and inspect, or cause any other person to enter into or inspect—

(a) any immovable property in the occupation of, or

(b) any work in progress under, or
(c) any institution under the control and administration of the Nagar Panchayat, or as the case may be, the Council; and

(2) call for inspecting of any book or document which may be, for the purpose of this Ordinance, in the possession or under the control of the Nagar Panchayat or as the case may be, the Council.

203. (1) The Government, or the Deputy Commissioner may by order in writing, suspend the execution of any resolution or order of the municipality or prohibit the doing of any act which is about to be done or is being done, in pursuance of, or under this Ordinance, or in pursuance of any sanction or permission granted by the municipality in the exercise of their powers under this Ordinance, if in its or his opinion, the resolution, order or act is contrary to the public interest or is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public, or to any class or body of persons.

(2) When the Deputy Commissioner makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Government.

(3) The Government may obtain the views of the Director and thereupon either rescind the order or direct that it continues in force with such modification and for such period as it may deem fit.

204. (1) If, in any case of emergency, the Deputy Commissioner upon the recommendation of the concerned technical advisor immediately available, is of opinion that the immediate execution of any work or the immediate doing of any act which the Nagar Panchayat or the Council, whether at a meeting or otherwise, are empowered to execute or do, is necessary for the health or safety of the public, he may call upon the Nagar Panchayat or the Council to execute the work within such time as he may appoint. If such work is not executed within such period he may appoint some other person to execute the work or do the act immediately.

(2) The Deputy Commissioner shall forthwith report to the Government every case in which he uses the powers conferred on him under sub-section (1) whereupon the Government may pass such order as it may deem fit.

(3) Where any person is appointed under sub-section (1), the Deputy Commissioner may direct that the expense of performing the duty, executing the work or doing the act, together with reasonable remuneration, if any, to the person so appointed, shall forthwith be paid by the Nagar Panchayat or by the Council.

(4) Where such expense and remuneration are not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the Municipal Fund to pay the expense and remuneration, or so much thereof as is possible from the balance, in priority to any or all other charge, and such person shall make payment accordingly.
295. If in the opinion of the Government, a Nagar Panchayat or a Council, as the case may be, is not competent to perform or persistently make default in the performance of the obligatory duties imposed upon it by or under this Ordinance or exceed or abuse its power the Government may by notification, stating the reasons for so doing declare such Nagar Panchayat or Council to be incompetent or in default or to have exceeded or abused its power, as the case may be, and dissolve such Nagar Panchayat or Council:

Provided that a Nagar Panchayat or a Council, as the case may be, shall be given a reasonable opportunity of being heard before its dissolution:

Provided further that when a Nagar Panchayat or a Council, as the case may be dissolved, the Government may appoint any person or persons to exercise and perform the powers and duties of the Nagar Panchayat or the Council during the period of dissolution until the new Nagar Panchayat or the Council, as the case may be, is constituted:

Provided also that the Government shall before the expiry of a period of six months from the date of dissolution of the Nagar Panchayat or the Council, cause fresh elections to be held for the constitution of a new Nagar Panchayat or a new Council.

206. An order of dissolution shall have the following consequences, namely:

(a) all the Councillors of the Nagar Panchayat or of the Council shall, as from the date of order, vacate their offices as such Councillors;

(b) all the powers and duties which under the Ordinance may be exercised and performed by the Nagar Panchayat or the Council, whether at a meeting or otherwise, shall during the period of dissolution be exercised and performed by such person or persons as the Government may direct;

(c) all property vested in such Nagar Panchayat or the Council shall, during the period of dissolution vest in the Government.

207. (1) When a dispute arises between a Nagar Panchayat or a Council or any other local authority on any matter which they are jointly interested, such dispute shall be referred to Government, whose decision shall be final.

(2) The Government may regulate by rules made under this Ordinance the relation to be observed between a Nagar Panchayat or a Council and other local authorities in any matter in which they are jointly interested.

CHAPTER XIV

RULES AND BYELAWS

208. (1) The Government may by notification and subject to the condition of previous publication, make rules for the purpose of carrying into effect the provisions of this Ordinance.
(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(i) manner in which the minutes of the proceedings of a meeting of a Nagar Panchayat or a Council or its committees shall be recorded and published;

(ii) form and manner in which the accounts of receipts and expenditures of a Nagar Panchayat or a Council shall be kept;

(iii) form and manner in which the annual budget of a Nagar Panchayat or a Council shall be prepared;

(iv) manner in which returns, statements and reports by a Nagar Panchayat or a Council shall be submitted;

(v) matter not specifically provided for in this Ordinance for the valuation of holdings, for the assessment, collection and refund of taxes imposed under this Ordinance;

(vi) determination of fees payable upon distraint warrant under this Ordinance;

(vii) regulation, management and inspection of the working systems of water-supply, lighting, drainage or sewerage provided, established or maintained by or under the control and administration of a Nagar Panchayat or a Council;

(viii) form and procedure for taking oath or affirmation by Councillors, Chairperson, Vice-Chairperson and the authority who shall administer oath or affirmation: and

(ix) manner in which bye-laws shall be published after confirmation by the Government.

(3) Every rule made under this Ordinance shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

209. (1) A municipality may, frame bye-laws consistent with the provisions of this Ordinance and the rules made thereunder for carrying out the provisions of this Ordinance, for—

(i) any matter in respect of which power to frame bye-laws is conferred expressly on the municipality under this Ordinance:
(ii) regulating traffic, and preventing obstructions and encroachments and nuisances on or near public roads, or on or near pontoons, bridges, ghats, landing places, river banks or other places of public resort or on places near water works for the supply of drinking water;

(iii) prescribing a minimum width of wheel-tyres or a minimum diameter and the maximum wheel-tracks or wheels for different classes of ears and carriage kept or used within the municipality;

(iv) prescribing the manner in which notice of the intention to erect, re-erect, materially alter a building shall be given to the municipality;

(v) requiring that with every such notice shall be furnished with a site-plan of the land on which it is intended to erect, re-erect or materially alter such building and plan and specification, and in the case of erection or re-erection of a building, estimate also of the cost of construction (excluding cost of land and its improvement) of the building, all such characters and with such details as the bye-laws may require in respect of all or any of the following matters, viz.—

(a) free passage or way in front of the building;

(b) space to be left about the building to secure free circulation of air and facilitate scavenging and for the prevention of fire;

(c) provision and position of latrines, privies, urinals, cesspools or drains;

(d) level and width of foundation, level of the lowest floor, and stability of the structure; and

(e) the line of frontage with neighbouring buildings, if the building stands on a public road;

(vi) regulating in respect of the erection, re-erection or material alteration of any buildings, within the municipality or part thereof—

(a) the materials and method of construction to be used for external and partition walls, roofs and floors;

(b) the materials and method of construction and position of fire-places, chimneys, latrines, privies, urinals, cesspools and drains;

(c) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on;

(d) the space to be left about the building to secure the free circulation of air and for the prevention of fire;

(e) the line of frontage where the building stands on a public road;

(f) the number and height of the storeys of which the building may consist;
(g) the means to be provided for egress from the building in case of fire;

(h) any other matter affecting the ventilation or sanitation of the building; and

(i) matter concerning sanitary conditions and water pollution of the area;

(ii) preventing the erection of buildings without adequate provisions being made for the laying out and location of roads;

(iii) regulating the level, means of drainage, alignment and width of roads constructed by private persons;

(iv) regulating the use of and the prevention of nuisance in regard to public water-supply, bathing and washing place, streams, channels, tanks and wells;

(v) regulating, either by granting licences necessary or otherwise, the washing of clothes by professional washerman, and fixing the places in which clothes may be so washed or in which they may not be so washed;

(vi) prescribing the measures to be taken for the prevention of the breeding of mosquitoes in wells, tanks, pools, excavations, cisterns or other places or vessels containing or capable of containing water;

(vii) regulating the cutting of trees and bamboo within the municipality;

(viii) regulating the disposal of sewage, offensive matter, carcasses of animals and rubbish, and the construction and maintenance of latrines, privies, urinals, cess-pools, drains and sewers;

(ix) providing for the inspection and regulation of markets and for the preparation and exhibition of a price list thereof;

(x) regulating the hours and manner of transport within the municipality of any specified articles of food or drink;

(xi) fixing the places in which any specified article of food or drink may be sold or exposed for sale or the places in which it may not be sold or exposed for sale and regulating the sale of foodstuff unfit for human consumption;

(xii) regulating, either by granting licences necessary or otherwise, or prohibiting, for the purpose of preventing danger to the public health the stalling or herding of horses, cattle, swine, donkeys, sheep or goats, geese, ducks and fowls;

(xiii) providing for the inspection of milk cattle and prescribing the measures to be taken on the occurrence among them of infectious or contagious diseases; and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing drainage and water-supply of dairies and cattle-sheds in the occupation of persons carrying on the trade of dairymen or milk-sellers;
(xix) providing for the inspection and proper regulation of encamping grounds, pounds, aeries, or dharmsalas, bakeries and aerated water factories, ice factories, flour mills, oil mills, sweetmeat shops, factories and other places in which mechanical or electrical power is employed, and slaughter-houses;

(xx) preventing nuisances affecting the public health, safety, or convenience in places of public resort for purposes of recreation or amusement;

(xxi) preventing nuisances affecting the public health, safety or convenience;

(xxii) controlling and regulating the use and management of burial and burning grounds and the disposal of corpses;

(xxiii) providing for the holding of fairs and industrial exhibitions within the municipality or under the control of the municipality and for fixing and collecting the fees to be levied thereon;

(xxiv) fixing the conditions on which licences under this Ordinance are to be granted and may be suspended or revoked;

(xxv) preventing and removing any encroachments on any municipal land including market-places, drains, roads, etc;

(xxvi) giving effect to the objects and purposes of this Ordinance; and the Municipality may by such bye-laws impose on offenders against any provision of the bye-laws, such reasonable penalties as it may think fit, not exceeding five thousand rupees for each offence, and, in case of a continuing offence, a further penalty not exceeding two hundred rupees for each day after written notice of the offence to them from the Municipality:

Provided that the above limits of rupees five thousand and rupees two hundred shall not apply to the offences in respect of the bye-laws regulating octroi;

(xxvii) distribution of works among the officers and the members of the staff of the municipality.

210. (I) A Nagar Panchayat or Council whose municipality is wholly or in part situated in a hilly tract may, in addition to such bye-laws as it may make under the preceding section frame bye-laws for regulating or prohibiting the cutting or destroying of trees; or shrubs or the making of excavations or removal of soil or quarrying, where such regulation or prohibition appears to the Nagar Panchayat or the Council to be necessary for any or all of following purposes:

(a) the maintenance of water supply;

(b) the preservation of the soil;

(c) the prevention of landslips;

(d) the formation of ravines or torrents;

(e) the protection of land against erosion or the deposit thereon of sand, gravel or stones;
(f) the protection of the beauty or general appearance of the municipality.

(2) The Nagar Panchayat or the Council may, by any bye-law framed under this section, declare that any person committing a breach of any such bye-law, or failing to comply with any notice issued thereunder, shall be liable to a fine which may extend to five hundred rupees and to a further fine, which may extend to two hundred rupees for each day after conviction during which the offence is continued.

211. (1) The power to frame bye-laws in the Ordinance shall be subject to the condition of previous notification.

(2) No such bye-laws shall come into force until it has been confirmed by the Government.

(3) The Government may cancel its confirmation of any such bye-law, and thereupon the bye-law shall cease to have effect.

212. Every bye-law shall, after confirmation, be published in the prescribed manner.

213. The Government may from time to time frame model bye-laws for any matter in respect of which a municipality is empowered to frame bye-laws under this Ordinance and publish them in the Official Gazette for the guidance of municipality.

CHAPTER XV
MISCELLANEOUS

214. (1) No act of the Nagar Panchayat or of the Council or of any of its committees shall be deemed to be invalid by reason of any vacancy in the membership thereof.

(2) Any proceeding of a meeting of the Nagar Panchayat or of Council or of any committee thereof shall be valid notwithstanding that it is subsequently discovered that some person who was not entitled to do so sat or voted or otherwise took part in the proceedings.

215 (1) The election of a person to the office of a Councillor shall not be called in question except by a petition to be filed before the Election Tribunal with in such time and in such manner as may be prescribed, on the ground that—

(a) the election has not been a free election by reason that the corrupt practice of bribery or undue influence has extensively prevailed at the election; or

(b) that the result of the election has been materially affected—

(c) by the improper acceptance or rejection of any nomination; or

(d) that the election has not been conducted in accordance with the provisions of the Ordinance.
(ii) by gross failure to comply with the provisions of this Ordinance or the rules framed thereunder.

(2) The Election Tribunal constituted under section 103 of the Manipur Panchayati Raj Act, 1994 shall also be the Election Tribunal for the purposes of sub-section (1).

(3) The decision of the Election Tribunal shall be final.

216. For the purpose of election of Chairperson, Vice-Chairperson and Councillor, the Government shall make rules for election and election petition under this Ordinance.

217. (1) No civil court shall have jurisdiction to question the legality of any action taken or any decision given by an officer or authority appointed under this Ordinance, in connection with the conduct of elections thereunder.

(2) Notwithstanding anything contained in this Ordinance,—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under this Ordinance shall not be called in question in any Court;

(b) no election to any Municipality shall be called in question except by an election petition presented to Election Tribunal and in such manner as is provided for by this Ordinance.

218. (1) The superintendence, direction and control of the preparation electoral rolls for, and conduct of, all elections to the Municipalities shall be vested in the State Election Commission constituted under section 98 of Manipur Panchayati Raj Act, 1994.

(2) Subject to the provisions of this Ordinance, election to the Municipalities shall be held in accordance with the rules made by the Government in behalf.

(3) The Government shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission under this Ordinance.

219. (1) For every municipal area, there shall be an electoral roll showing the names of persons qualifying to vote.

(2) The electoral roll for every municipal area shall be divided into parts, one for each ward of a municipal area.

(3) The electoral roll for a municipal area shall be prepared, revised or corrected by the State Election Commission in accordance with such rules as may be made by the Government in behalf.
Provided that there shall be a preliminary publication of such electoral roll after preparation or revision to be followed by final publication after hearing of objections in the manner prescribed.

(4) Notwithstanding anything contained in this Ordinance, the electoral roll for the time being in force for the election of Members of the Manipur Legislative Assembly, so far as it relates to the area comprised in the municipal area, may be adopted as the electoral roll for that municipal area for the purposes of preliminary publication.

220. (1) Every person who—

(a) is not less than 18 years of age on the qualifying date, and

(b) is ordinarily resident in a municipal area,

shall be entitled to be registered in the electoral roll for that municipal area.

(2) No person shall be entitled to be registered in the electoral roll for any municipal area in more than one place.

(3) No person shall be entitled to be registered in the electoral roll for any municipal area if his name has already been registered as a voter in the electoral roll of any other local authority.

Explanation I.—The expression "qualifying date" shall mean such date as the Government may by notification specify for the purposes of this Ordinance.

Explanation II.—The expression "ordinarily resident" shall have the same meaning as assigned to it in section 20 of the Representation of the People Act, 1950.

221. If any difficulty arises in giving effect to the provisions of this Ordinance the Government may, by order, do anything not inconsistent with the provisions thereof which appears to it to be necessary or expedient for the purpose of removing the difficulty.

222. The provisions of this Ordinance, rules and bye-laws, and orders made and directions issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.

223. (1) A copy of any receipt, application, plan, notice, order, entry in a register or other document in the possession of a Nagar Panchayat or a Council, shall, if duly certified by any person authorised by any bye-law in this behalf, be received as evidence of the existence of any entry or document and shall be admitted as evidence of the matters and transactions therein recorded in every case, where and to the same extent as the original entry or document would, if produced, have been admissible to prove such matters.

(2) For the issue of such copies the Nagar Panchayat or as the case may be, the Council may impose such fees as may be fixed by any bye-law in this behalf.
224. No municipal officer or servant shall in any legal proceeding to which a Nagar Panchayat or a Council is not a party be required to produce any register or document the contents of which can be proved by a certified copy, or to appear as a witness to prove the matters and transaction recorded therein unless by order of the court made for a special cause.

225. If any person violates any of the provisions of this Ordinance for which a penalty is not already provided under this Ordinance he shall be liable to a fine not exceeding rupees five hundred for each day in the case of continuing violation.

226. Every Councillor and every officer or servant of the Nagar Panchayat or the Council and every contractor or agent appointed by it for the collection of any tax or every person employed by such contractor or agent for collection of such tax shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

227. (1) The District Planning Committee constituted under section 96 of the Manipur Panchayati Raj Act, 1994 shall also be the District Planning Committee for the purposes of this Ordinance.

(2) The District Planning Committee shall consist of—

(a) members of House of the People who represent the whole or part of the district;

(b) all the members of the State Legislative Assembly whose constituencies lie within the district;

(c) Adhyaksha of the Zilla Parishad;

(d) Mayor or the President of the Municipal Corporation or the Municipal Council respectively, having jurisdiction over the head quarters of the District; and

Explanation—For the purposes of this clause, "Mayor or the President" shall mean the Chairperson of the Municipal Council or as the case may be, of the Municipal Corporation;

(e) such number of persons not less than four-fifth of the total number of members of the Committee as may be specified by the Government elected in the prescribed manner from amongst the members of the Zilla Parishad, Nagar Panchayat and Councillors of the Municipal Corporation and the Municipal Councils in the district, in proportion to the ratio between the population of the rural areas and of the urban areas in the district.

(3) The Chairman of the District Co-operative Banks and of the Development Bank shall be permanent invitees of the Committee.
(4) The Chief Executive Officers shall be the Secretary of the Committee.

(5) The Deputy Commissioner of the Districts shall be the Chairman District Planning Committee.

(6) The District Planning Committee shall consolidate the plans prepared by the Zilla Parishad, Gram Panchayat, Nagar Panchayat, Municipal Council and the Municipal Corporation in the district and prepare a draft development plan for the district as a whole.

(7) Every District Planning Committee shall in preparing the draft development plan—

(a) have regard to—

(i) the matters of common interest between the Zilla Parishad, Gram Panchayats, Nagar Panchayats, Municipal Corporation and Municipal Councils in the district including spatial planning sharing of water and other physical and natural resource, the integrated development of infrastructure and environmental conservation,

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Government may by order specify.

(8) The Chairman of every District Planning Committee shall forward the development plan, as recommended by such Committee to the Government.

228. (1) The Governor may by notification notify an area having a population of ten lakh or more comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, to be a Metropolitan area for the purposes of this Ordinance.

(2) On such notification the Government shall constitute in every Metropolitan area a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.

(3) The Government may prescribe by notification with respect to—

(a) the manner in which the seats in such Committee shall be filled:

Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area;

(b) the representation in such Committee of the Government of India and the Government and of such organisations and institutions as may be deemed necessary for carrying out the functions assigned to such Committee.
(c) the functions relating to planning and co-ordination for the Metropolitan area which may be assigned to such Committee;

(d) the manner in which the Chairperson of such Committee shall be chosen.

(4) Every Metropolitan Planning Committee shall, in preparing the draft development plan—

(a) have regard to—

(i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;

(ii) matters of common interest between the Municipalities and the Panchayats, including coordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(iii) the overall objectives and priorities set by the Government of India and the Government;

(iv) the extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and Government, and other available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(5) The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government.

229. The State Government may, by notification delegate to any officer or authority subordinate to it any of the powers conferred on it or on any officer subordinate to it by this Ordinance, other than powers to make rules, to be exercised subject to such restrictions and conditions as may be specified in the said notification.

230. (1) On and from the date on which this Ordinance comes into force, the Manipur Municipalities Act, 1976 shall be repealed:

Provided that the said repeal shall not affect:

(a) the validity, effect or consequence of anything done or suffered under the said enactment;

(b) any right, title, obligation or liability already acquired, accrued or incurred under the said enactment or any remedy or proceeding in respect thereof;
(c) any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted; and

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted or enforced and any such penalty, forfeiture or punishment may be imposed as if such enactment or part thereof had not been repealed.

(2) Notwithstanding anything contained in sub-section (1), all municipalities declared, limits defined, regulations and divisions made, all rules and bye-laws, notifications, orders, appointments and assessments made, licences and notices issued, taxes, tolls, rates and fees imposed or assessed, budgets passed, plans approved, permissions or sanctions granted, contracts entered into, suits instituted and proceedings taken under the Manipur Municipal Act, 1976 in force immediately before the commencement of this Ordinance shall continue to be in force and shall be deemed to have been respectively made, issued, imposed or assessed, passed, approved, granted, entered into, instituted and taken under this Ordinance until new provisions are made or superseded by anything done or any action taken under this Ordinance.
SCHEDULE

(See section 36)

1. Urban Planning including Town Planning.
2. Regulation of land use and construction of buildings.
3. Planning for economic and social development.
4. Roads and Bridges.
5. Water supply for domestic, industrial and commercial purposes.
7. Fire Services.
9. Safeguarding the interests of weaker sections of society including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities, such as parks, gardens and playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
15. Model ponds, cattle ponds, prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.