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Part IV—Section 4

CENTRAL ACTS AND ORDINANCES

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**ACTS OF PARLIAMENT ASSENTED TO BY THE PRESIDENT
GOVERNMENT OF INDIA**

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 9th January, 2012.

The following Act received the assent of the President on the 8th March, 2012 and is hereby published for general information.

THE DAMODAR VALLEY CORPORATION (AMENDMENT) ACT, 2011

ACT No. 1 OF 2012

An Act further to amend the Damodar Valley Corporation Act, 1948.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:-

Short title and
Commence-
ment.

1. (1) This Act may be called the Damodar Valley Corporation (Amendment) Act, 2011.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of
section 4.

2. In section 4 of the Damodar Valley Corporation Act, 1948 (hereinafter referred to as the principal Act), for sub-section (1), the following sub-sections shall be substituted, namely:-

14 of 1948.

“(1) The Corporation shall consist of—

(a) a Chairman;

(b) a member (technical) and a member (finance);

(c) one representative from the Central Government;

(d) two representatives one each from the State Governments of Jharkhand and West Bengal; .

(e) three independent experts one each from the field of irrigation, water supply and generation or transmission or distribution of electricity; and

(f) a Member-Secretary.

(1A) The Chairman and members under clauses(a), (b), (d) and (f) of sub-section (1) shall be appointed by the Central Government in consultation with the State Governments concerned while the members under clauses (c) and (e) shall be appointed by the Central Government, by notification in the Official Gazette.

(1B) The Chairman and members under clauses (a), (b) and (f) of sub-section (1) shall be whole-time while the members under clauses (c), (d) and (e) shall be part-time.

(1C) The Chairman shall be the Chief Executive Officer of the Corporation.

(1D) Without prejudice to the provisions contained in sub-section (1C), the Member-Secretary shall be in charge of general administration and business development of the Corporation.”.

Amendment of
section 6.

3. In section 6 of the principal Act, sub-sections (1) and (2) shall be omitted.

Amendment of
section 7.

4. In section 7 of the principal Act, clause (a) shall be omitted.

Amendment of
section 8.

5. For section 8 of the principal Act, the following section shall be substituted, namely:-

Functions and
duties of
members.

“8. The functions and duties of the members shall be such as may be prescribed.”.

6. In section 44 of the principal Act, in sub-section (1), for the words "financial adviser", the words and brackets "member (finance)" shall be substituted. Amendment of section 44.
7. In section 59 of the principal Act,- Amendment of section 59.
- (a) in sub-section (1), the words "the secretary and the financial adviser" shall be omitted;
- (b) in sub-section (2), for the words "financial adviser", the word "members" shall be substituted.

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, the 9th January, 2012

The following Act of Parliament received the assent of the President on the 8th January, 2012 and is hereby published for general information:—

THE CONSTITUTION (SCHEDULED TRIBES) ORDER (AMENDMENT) ACT, 2011

ACT No. 2 OF 2012

An Act further to amend the Constitution (Scheduled Tribes) Order, 1950 to modify the list of Scheduled Tribes in the States of Manipur and Arunachal Pradesh.

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

1. This Act may be called the Constitution (Scheduled Tribes) Order (Amendment) Act, 2011. Short title.

C.O. 22

2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950,—

(a) in PART X.—*Manipur*,-

(i) for entry 8, substitute-

“8. Kabui, Inpui, Rongmei”;

(ii) for entry 9, substitute-

“9. Kacha Naga, Liangmai, Zeme”;

(iii) for entry 10, substitute-

“10. Koirao, Thangal”;

(iv) after entry 33, insert-

“34. Mate”;

(b) in PART XVIII.—*Arunachal Pradesh*,—

for entry 5, substitute—

“5. Galo”.

Amendment of
Parts X and
XVIII of
Constitution
(Scheduled
Tribes)
Order, 1950.

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, the 9th January, 2012

The following Act of Parliament received the assent of the President on the 8th January, 2012 and is hereby published for general information:—

THE CHARTERED ACCOUNTANTS (AMENDMENT) ACT, 2011

ACT No. 3 OF 2012

An Act further to amend the Chartered Accountants Act, 1949.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:-

1. (1) This Act may be called the Chartered Accountants (Amendment) Act, 2011.

Short title and Commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

38 of 1949.

2. In the Chartered Accountants Act, 1949 (hereinafter referred to as the principal Act), in section 2,-

Amendment of section 2.

(i) in sub-section (1),-

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

9 of 1932.

‘(ca) “firm” shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932, and includes,-

6 of 2009.

(i) the limited liability partnership as defined in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008; or

(ii) the sole proprietorship,

registered with the Institute;’;

(b) after clause (ea), the following clauses shall be inserted, namely:-

9 of 1932.

‘(eb) “partner” shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932 or in clause (q) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008, as the case may be;

6 of 2009.

(ec) “partnership” means-

9 of 1932.

(A) a partnership as defined in section 4 of the Indian Partnership Act, 1932; or

(B) a limited liability partnership which has no company as its partner;’;

(c) after clause (ha), the following clause shall be inserted, namely:-

‘(haa) “sole proprietorship” means an individual who engages himself in the practice of accountancy or offers to perform services referred to in clauses (ii) to (iv) of sub-section (2);’;

(ii) in sub-section (2),-

(a) after the words “chartered accountants in practice”, the words “or in partnership with members of such other recognised professions as may be prescribed” shall be inserted;

(b) in the *Explanation*, for the words “a firm of such chartered accountants”, the words “a firm of such chartered accountants or firm consisting of one or more chartered accountants and members of any other professional body having prescribed qualifications” shall be substituted.

Amendment of
Section 25.

3. In section 25 of the principal Act, in sub-section (1), the following *Explanation* shall be inserted, namely:-

*'Explanation.—*For the removal of doubts, it is hereby declared that the “company” shall include any limited liability partnership which has company as its partner for the purposes of this section.*'*

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, the 9th January, 2012

The following Act of Parliament received the assent of the President on the 8th January, 2012 and is hereby published for general information:—

THE COMPANY SECRETARIES (AMENDMENT) ACT, 2011

ACT No. 4 OF 2012

An Act further to amend the Company Secretaries Act, 1980

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

1. (1) This Act may be called the Company Secretaries (Amendment) Act, 2011. Short title and Commence-
ment.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 56 of 1980. 2. In the Company Secretaries Act, 1980 (hereinafter referred to as the principal Act), in section 2, in sub-section (1)— Amendment of section 2.
- (i) after clause (1), the following clause shall be inserted, namely:—
- 9 of 1932. '(fa) "firm" shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932, and includes,—
- 6 of 2009. (i) the limited liability partnership as defined in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008; or
- (ii) the sole proprietorship,
registered with the Institute;';
- (ii) after clause (ga), the following clauses shall be inserted, namely:—
- 9 of 1932. '(gb) "partner" shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932 or in clause (q) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008, as the case may be;
- 6 of 2009.
- 9 of 1932. (gc) "partnership" means—
- (A) a partnership as defined in section 4 of the Indian Partnership Act, 1932; or
- (B) a limited liability partnership which has no company as its partner;';
- (iii) after clause (j), the following clause shall be inserted, namely:—
- '(jj) "sole proprietorship" means an individual who engages himself in the practice of the profession of the company secretaries or offers to perform services referred to in clauses (b) to (f) of sub-section (2);';
3. In section 26 of the principal Act, in sub-section (1), the following *Explanation* shall be inserted, namely:— Amendment of section 26.
- '*Explanation.*—For the removal of doubts, it is hereby declared that the "company" shall include any limited liability partnership which has company as its partner for the purposes of this section.'

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
Additional Secretary to Government,
Law Department.

New Delhi, the 9th January, 2012

The following Act of Parliament received the assent of the President on the 8th January, 2012 and is hereby published for general information.

THE NEW DELHI MUNICIPAL COUNCIL (AMENDMENT) ACT, 2011

ACT No. 5 OF 2012

An Act further to amend the New Delhi Municipal Council Act, 1994.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:-

1. (1) This Act may be called the New Delhi Municipal Council (Amendment) Act, 2011.

Short title and
Commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

44 of 1994.

2. In the New Delhi Municipal Council Act, 1994 (hereinafter referred to as the principal Act), in section 4,-

Amendment of
section 4.

(a) in sub-section (1),-

(i) in clause (b), for the words "three members", the words "two members" shall be substituted;

(ii) in clause (d), for the words "two members", the words "four members" shall be substituted;

(iii) after clause (d), the following clause shall be inserted, namely:-

"(e) the Member of Parliament, representing constituency which comprises wholly or partly the New Delhi area.";

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

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

"(3) Out of the thirteen members referred to in sub-section (1), there shall be, at least,-

(a) three members who are women;

(b) two members belonging to the Scheduled Castes, out of which one member shall be from the members nominated under clause (d) of sub-section (1)."

3. In section 25 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:-

Amendment of
section 25.

"(1) The meetings of the Council shall be presided over, in the following order, by,-

(a) the Chief Minister of Delhi, if he is a member of the Legislative Assembly of Delhi representing the constituency which comprises wholly or partly the New Delhi area, and attends the meeting being a member of the Council under clause (b) of sub-section (1) of section 4; or

(b) the Union Minister, if he is a Member of Parliament representing the constituency which comprises wholly or partly the New Delhi area, and attends the meeting being a member of the Council under clause (e) of sub-section (1) of section 4; or

(c) the Minister in the Government of National Capital Territory of Delhi, if he is a Member of the Legislative Assembly of Delhi representing the constituency which comprises wholly or partly the New Delhi area, and attends the meeting being a member of the Council under clause (b) of sub-section (1) of section 4; or

(d) the Member of Parliament not being a Minister for the Union representing the constituency which comprises wholly or partly the New Delhi area, and attends the meeting being a member of the Council under clause (e) of sub-section (1) of section 4; or

(e) the Chairperson of the Council.”.

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, the 9th January, 2012

The following Act of Parliament received the assent of the President on the 8th January, 2012 and is hereby published for general information.

THE PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA)
AMENDMENT ACT, 2011

ACT No. 6 OF 2012

An Act further to amend the Prasar Bharti (Broadcasting Corporation of India) Amendment Act, 1994.

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

1. (1) This Act may be called the Prasar Bharati (Broadcasting Corporation of India) Amendment Act, 2011.

Short Title and Commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

25 of 1990.

2. In the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (hereinafter referred to as the principal Act), for section 11, the following sections shall be substituted, namely:-

Substitution of new sections for section 11.

'11. (1) All officers and employees recruited for the purposes of Akashvani or Doordarshan before the appointed day and in service in the Corporation as on the 1 st day of April, 2000, shall be on deemed deputation to the Corporation with effect from the 1 st day of April, 2000, and shall so continue till their retirement.

Status of officers and employees.

(2) All officers and employees recruited during the period on or after the appointed day till the 5th day of October, 2007, shall be on deemed deputation to the Corporation with effect from the 1 st day of April, 2000 or the date of their joining service in the Corporation, whichever is later and until their retirement.

*Explanation.—*For the purposes of sub-sections (1) and (2), "officers and employees recruited" means officers and employees recruited either under the proviso to article 309 of the Constitution or in accordance with the regulations made under the Act, but shall not include persons engaged or appointed on daily wages, casual, *ad hoc* or work charged basis.

(3) The officers and employees referred to in sub-section (1) and sub-section (2) shall be entitled to the pay and all other benefits as admissible to an employee of the Central Government:

Provided that such officers and employees shall not be entitled to any deputation allowance.

(4) Notwithstanding anything contained in any other law for the time being in force, the Corporation shall have the disciplinary and supervisory powers and full control on the officers and employees referred to in sub-section (1) and sub-section (2), including the power to transfer them from one place, post or media to another, and to suspend, initiate disciplinary proceedings and impose major or minor penalties:

Provided that the power to impose major penalties of compulsory retirement, removal or dismissal from service shall be exercised by the Central Government.

(5) All officers and employees recruited after the 5th day of October, 2007 shall be officers and employees of the Corporation and shall be governed by such conditions of service as may be specified in the regulations.

11A. (1) The provisions of section 11 shall not apply to officers and employees of the Indian Information Service, the Central Secretariat Service or any other service borne on any cadre outside Akashvani or Doordarshan, who have been working in Akashvani or Doordarshan before the appointed day or in service in the Corporation after that day.

Section 11 not to apply to certain officers and employees.

(2) The terms and conditions of service in the Corporation of officers and employees referred to in sub-section (1) shall be such as may be prescribed.

Transfer of posts of Akashvani and Doordarshan to Corporation.

11B. (1) All posts in the erstwhile Akashvani and Doordarshan other than the posts borne on the strength of the cadres referred to in sub-section (2) shall be deemed to have been transferred to the Corporation with effect from the 1st day of April, 2000.

(2) All matters relating to the posts borne on the strength of the cadres of the Indian Information Service, the Central Secretariat Service or any other cadre outside Akashvani or Doordarshan, in so far as such posts are concerned with the Corporation, shall be determined in such manner and on such terms and conditions as may be prescribed.

Amendment of section 32.

3. In section 32 of the principal Act, in sub-section (2), for clause (f), the following clauses shall be substituted, namely:-

“(f) the terms and conditions of service in the Corporation of officers and employees under sub-section (2) of section 11A;

(ff) the manner and the terms and conditions subject to which matters relating to the posts borne on the strength of the cadres of the Indian Information Service, the Central Secretariat Service or any other cadre outside Akashvani or Doordarshan shall be determined under sub-section (2) of section 11B;”.

Amendment of section 33.

4. In section 33 of the principal Act, in sub-section (2),—

(i) for clause (d), the following clause shall be substituted, namely:-

“(d) the conditions of service of officers and employees under sub-section (5) of section 11;”;

(ii) clause (e) shall be omitted.

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
Additional Secretary to Government,
Law Department.

New Delhi, the 9th January, 2012

The following Act of Parliament received the assent of the President on the 8th January, 2012 and is hereby published for general information.

THE APPROPRIATION (RAILWAYS) ACT, 2011

ACT No. 7 OF 2012

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2011-12 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) No.3 Act, 2011. Short title .
2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one lakh rupees towards defraying the several charges which will come in course of payment during the financial year 2011-12, in respect of the services relating to Railways specified in column 2 of the Schedule. Issue of
Rs. 1,00,000
out of the
Consolidated
Fund of India
for financial
year 2011-12.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

THE SCHEDULE

(See sections 2 and 3)

| No. of Vote (1) | Services and purposes (2) | Sums not exceeding (3) | | |
|-----------------------|---|-------------------------------|---|-----------------|
| | | Voted by Parliament Rs. | Charged on the Consolidated Fund Rs. | Total Rs. |
| 16 | Assets-Acquisition, Construction and Replacement— <i>Other Expenditure</i> | | | |
| | Capital..... | 40,000 | .. | 40,000 |
| | Railway Funds..... | 40,000 | .. | 40,000 |
| | Railway Safety Fund..... | 20,000 | .. | 20,000 |
| | TOTAL..... | <u>1,00,000</u> | .. | <u>1,00,000</u> |

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
Additional Secretary to Government,
Law Department.

New Delhi, the 13th January, 2012

The following Act of Parliament received the assent of the President on the 12th January, 2012 and is hereby published for general information.

THE LIFE INSURANCE CORPORATION AMENDMENT ACT, 2011

ACT No. 8 OF 2012

An Act further to amend the Life Insurance Corporation Act, 1956.

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

1. (1) This Act may be called the Life Insurance Corporation (Amendment) Act, 2011.

Short Title
and
Commence-
ment

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

31 of 1956

2. In the Life Insurance Corporation Act, 1956 (hereinafter referred to as the principal Act), for section 5, the following section shall be substituted, namely:—

Substitution
of new
section for
section 5.

“5. (1) The paid-up equity capital of the Corporation shall be one hundred crore of rupees provided by the Central Government after due appropriation made by Parliament by law for the purpose.

(2) The Corporation may issue and sell bonds and debentures or such other prescribed instruments carrying interest for the purpose of raising its working capital to such amount as may be prescribed.”

3. In section 18 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

Amendment of
section 18.

“(4) There may be established as many divisional offices and branches in each zone as may be decided by the Corporation in accordance with the guidelines issued by the Insurance Regulatory and Development Authority established under the Insurance Regulatory and Development Authority Act, 1999 in this regard.”

41 of 1999.

4. In section 26 of the principal Act, for the words “once at least in every two years”, the words “every year” shall be substituted.

Amendment
of section
26.

5. For section 28 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 28.

“28. (1) If as a result of any investigation undertaken by the Corporation under section 26, any surplus emerges,—

Surplus from
life
insurance
business,
how to be
utilised.

(a) ninety per cent. or more such surplus, as the Central Government may approve, shall be allocated to or reserved for the life insurance policyholders of the Corporation;

(b) such percentage of remaining surplus as the Central Government may approve shall be credited to separate account maintained by the Corporation; and

(c) the remainder shall be paid as dividend.

(2) The funds available in the account maintained by the Corporation under clause (b) of sub-section (1) shall be utilised for such purpose and in such manner as the Central Government may determine.”

6. In section 37 of the principal Act, the following proviso shall be inserted, namely:—

Amendment of
section 37.

“Provided that the Corporation shall endeavour that its funds are invested in the attractive schemes formulated by it to ensure increased bonus to policyholders while having least investment risk so as to enable the Corporation to play a greater role in economic enrichment of the masses while maintaining its position as a leading player in the market.”

Amendment of
section 44.

7. In section 44 of the principal Act, in clause (b), the following proviso shall be inserted, namely:—

“Provided that nothing contained in this clause shall apply on and from the date on which the provisions contained in section 2E of the Insurance Act, 1938 shall cease to operate.” ‘

4 of 1938

Amendment of
section 48.

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

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

“(aa) the instruments which may be issued and the amount of working capital under sub-section (2) of section 5;”;

(ii) in clause (cc), the words “and agents” occurring at both the places, shall be omitted.

Amendment of
section 49.

9. In section 49 of the principal Act, in sub-section (2),-

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

“(b) the method of recruitment of employees and agents of the Corporation and the terms and conditions of the agents;”;

(ii) clause (j) shall be omitted.

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, the 13th January, 2012.

The following Act of Parliament received the assent of the President on the 12th January, 2012 and is hereby published for general information:—

THE CONSTITUTION (NINETY SEVENTH AMENDMENT) ACT, 2011

An Act further to amend the Constitution of India.

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

- | | |
|---|---|
| <p>1. (1) This Act may be called the Constitution (Ninety-seventh Amendment) Act, 2011.</p> <p>(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p> | <p>Short Title and Commencement</p> |
| <p>2. In Part III of the Constitution, in article 19, in clause (1), in sub-clause (c), after the words "or unions", the words "or co-operative societies" shall be inserted.</p> | <p>Amendment of article 19.</p> |
| <p>3. In Part IV of the Constitution, after article 43A, the following article shall be inserted, namely:—</p> <p>"43B. The State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies."</p> | <p>Insertion of new article 43B</p> <p>Promotion of co-operative societies.</p> |
| <p>4. After Part IXA of the Constitution, the following Part shall be inserted, namely:—</p> | <p>Insertion of new Part IXB</p> |

'PART IXB

THE CO-OPERATIVE SOCIETIES

243ZH. In this Part, unless the context otherwise requires,—

Definitions.

- (a) "authorised person" means a person referred to as such in article 243ZQ;
- (b) "board" means the board of directors or the governing body of a co-operative society, by whatever name called, to which the direction and control of the management of the affairs of a society is entrusted to;
- (c) "co-operative society" means a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;
- (d) "multi-State co-operative society" means a society with objects not confined to one State and registered or deemed to be registered under any law for the time being in force relating to such co-operatives;
- (e) "office bearer" means a President, Vice-President, Chairperson, Vice-Chairperson, Secretary or Treasurer of a co-operative society and includes any other person to be elected by the board of any co-operative society;
- (f) "Registrar" means the Central Registrar appointed by the Central Government in relation to the multi-State co-operative societies and the Registrar for co-operative societies appointed by the State Government under the law made by the Legislature of a State in relation to co-operative societies;
- (g) "State Act" means any law made by the Legislature of a State;
- (h) "State level co-operative society" means a co-operative society having its area of operation extending to the whole of a State and defined as such in any law made by the Legislature of a State.

Incorporation of co-operative societies.

243ZI. Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the incorporation, regulation and winding up of co-operative societies based on the principles of voluntary formation, democratic member-control, member-economic participation and autonomous functioning.

Number and term of members of board and its office bearers.

243ZJ. (1) The board shall consist of such number of directors as may be provided by the Legislature of a State, by law:

Provided that the Maximum number of directors of a co-operative society shall not exceed twenty-one:

Provided further that the Legislature of a State shall, 'by law, provide for the reservation of one seat for the Scheduled Castes or the Scheduled Tribes and two seats for women on board of every co-operative society consisting of individuals as members and having members from such class or category of persons.

(2) The term of office of elected members of the board and its office bearers shall be five years from the date of election and the term of office bearers shall be coterminous with the term of the board: .

Provided that the board may fill a casual vacancy on the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the term of office of the board is less than half of its original term.

(3) The Legislature of a State shall, by law, make provisions for co-option of persons to be members of the board having experience in the field of banking, management, finance or specialisation in any other field relating to the objects and activities undertaken by the co-operative society, as members of the board of such society:

Provided that the number of such co-opted members shall not exceed two in addition to twenty-one directors specified in the first proviso to clause (1):

Provided further that such co-opted members shall not have the right to vote in any election of the co-operative society in their capacity as such member or to be eligible to be elected as office bearers of the board:

Provided also that the functional directors of a co-operative society shall also be the members of the board and such members shall be excluded for the purpose of counting the total number of directors specified in the first proviso to clause (1).

Election of members of board.

243ZK. (1) Notwithstanding anything contained in any law made by the Legislature of a State, the election of a board shall be conducted before the expiry of the term of the board so as to ensure that the newly elected members of the board assume office immediately on the expiry of the term of the office of members of the outgoing board.

(2) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to a co-operative society shall vest in such an authority or body, as may be provided by the Legislature of a State, by law:

Provided that the Legislature of a State may, by law, provide for the procedure and guidelines for the conduct of such elections.

Supersession and suspension of board and interim management.

243ZL. (1) Notwithstanding anything contained in any law for the time being in force, no board shall be superseded or kept under suspension for a period exceeding six months:

Provided that the board may be superseded or kept under suspension in case—

(i) of its persistent default; or .

(ii) of negligence in the performance of its duties; or

(iii) the board has committed any act prejudicial to the interests of the co-operative society or its members; or

(iv) there is a stalemate in the constitution or functions of the board; or

(v) the authority or body as provided by the Legislature of a State, by law, under clause (2) of article 243ZK, has failed to conduct elections in accordance with the provisions of the State Act:

Provided further that the board of any such co-operative society shall not be superseded or kept under suspension where there is no Government shareholding or loan or financial assistance or any guarantee by the Government:

10 of 1949. Provided also that in case of a co-operative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 shall also apply:

Provided also that in case of a co-operative society, other than a multi-State co-operative society, carrying on the business of banking, the provisions of this clause shall have the effect as if for the words "six months", the words "one year" had been substituted.

(2) In case of supersession of a board, the administrator appointed to manage the affairs of such co-operative society shall arrange for conduct of elections within the period specified in clause (1) and handover the management to the elected board.

(3) The Legislature of a State may, by law, make provisions for the conditions of service of the administrator.

243ZM.(1) The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the co-operative societies and the auditing of such accounts at least once in each financial year.

Audit of accounts of co-operative societies.

(2) The Legislature of a State shall, by law, lay down the minimum qualifications and experience of auditors and auditing firms that shall be eligible for auditing accounts of the co-operative societies.

(3) Every co-operative society shall cause to be audited by an auditor or auditing firms referred to in clause (2) appointed by the general body of the co-operative society:

Provided that such auditors or auditing firms shall be appointed from a panel approved by a State Government or an authority authorised by the State Government in this behalf.

(4) The accounts of every co-operative society shall be audited within six months of the close of the financial year to which such accounts relate.

(5) The audit report of the accounts of an apex co-operative society, as may be defined by the State Act, shall be laid before the State Legislature in the manner, as may be provided by the State Legislature, by law.

243ZN. The Legislature of a State may, by law, make provisions that the annual general body meeting of every 'Co-operative society shall be convened within a period of six months of close of the financial year to transact the business as may be provided in such law.

Convening of general body meetings.

243ZO.(1) The Legislature of a State may, by law, provide for access to every member of a co-operative society to the books, information and accounts of the co-operative society kept in regular transaction of its business with such member.

Right of a member to get information.

(2) The Legislature of a State may, by law, make provisions to ensure the participation of members in the management of the co-operative society providing minimum requirement of attending meetings by the members and utilising the minimum level of services as may be provided in such law.

(3) The Legislature of a State may, by law, provide for co-operative education and training for its members.

- Returns. **243ZP.** Every co-operative society shall file returns, within six months of the close of every financial year, to the authority designated by the State Government including the following matters, namely:—
- (a) annual report of its activities;
 - (b) its audited statement of accounts;
 - (c) plan for surplus disposal as approved by the general body of the co-operative society;
 - (d) list of amendments to the bye-laws of the co-operative society, if any;
 - (e) declaration regarding date of holding of its general body meeting and conduct of elections when due; and
 - (f) any other information required by the Registrar in pursuance of any of the provisions of the State Act.
- Offences and penalties. **243ZQ.**(1) The Legislature of a State may, by law, make provisions for the offences relating to the co-operative societies and penalties for such offences.
- (2) A law made by the Legislature of a State under clause (1) shall include the commission of the following act or omission as offences, namely:—
- (a) a co-operative society or an officer or member thereof wilfully makes a false return or furnishes false information, or any person wilfully not furnishes any information required from him by a person authorised in this behalf under the provisions of the State Act;
 - (b) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of the State Act;
 - (c) any employer who, without sufficient cause, fails to pay to a co-operative society amount deducted by him from its employee within a period of fourteen days from the date on which such deduction is made;
 - (d) any officer or custodian who wilfully fails to hand over custody of books, accounts, documents, records, cash, security and other property belonging to a co-operative society of which he is an officer or custodian, to an authorised person; and
 - (e) whoever, before, during or after the election of members of the board or office bearers, adopts any corrupt practice.
- Application to multi-State co-operative societies. **243ZR.** The provisions of this Part shall apply to the multi-State co-operative societies subject to the modification that any reference to "Legislature of a State", "State Act" or "State Government" shall be construed as a reference to "Parliament", "Central Act" or "the Central Government" respectively.
- Application to Union territories. **243ZS.** The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, having no Legislative Assembly as if the references to the Legislature of a State were a reference to the administrator thereof appointed under article 239 and, in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:
- Provided that the President may, by notification in the Official Gazette, direct that the provisions of this Part shall not apply to any Union territory or part thereof as he may specify in the notification.
- Continuance of existing laws. **243ZT.** Notwithstanding anything in this Part, any provision of any law relating to co-operative societies in force in a State immediately before the commencement of the Constitution (Ninety-seventh Amendment) Act, 2011., which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is less.

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
Additional Secretary to Government,
Law Department.

New Delhi, the 13th January, 2012

The following Act of Parliament received the assent of the President on the 12th January, 2012 and is hereby published for general information.

THE PETROLEUM AND MINERALS PIPELINES (ACQUISITION OF RIGHT OF USER IN LAND) AMENDMENT ACT, 2011

ACT No. 9 OF 2012

An Act further to amend the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962.

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

1. (1) This Act may be called the Petroleum and Minerals Pipelines (Acquisition of s Right of User in Land) Amendment Act, 2011.

Short Title and Commence-ment

(2) It shall come into force on such date as the Central Government may, by notification¹ in the Official Gazette, appoint.

50 of 1962

2. For sections 15 and 16 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, the following sections shall be substituted, namely:—

Substitution of new sections 15 and 16.

15. (1) Whoever wilfully obstructs any person in doing any of the acts authorised by section 4 or section 7 or section 8 or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4 or wilfully does any act prohibited under section 9, shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(2) Whoever wilfully makes or causes to make any unauthorised connection with or removes, destroys, damages or displaces any pipeline laid under section 7, or wilfully inserts any device to extract petroleum product or minerals from such pipeline, or wilfully disrupts supplies being made through the pipeline, shall be punishable with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine.

(3) If any person convicted of an offence under sub-section (2) is again convicted of an offence under the same provision, he shall be punishable with rigorous imprisonment for the second and for every subsequent offence for a term which shall not be less than three years but which may extend to ten years:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three years.

(4) Whoever, with the intent to cause or knowing that he is likely to cause damage to or destruction of any pipeline laid under section 7, causes by fire, explosive substance or otherwise damage to the pipeline being used for transportation of petroleum products, crude oil or gas with the intent to commit sabotage or with the knowledge that such act is so imminently dangerous that it may in all probability cause death of any person or such bodily injury likely to cause death of any person, shall be punishable with rigorous imprisonment which shall not be less than ten years but may extend to imprisonment for life or death.

2 of 1974.

16. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence falling under sub-sections (2), (3) and (4) of section 15 shall be deemed to be cognizable and non-bailable within the meaning of that Code.

Certain offences to be cognizable.

16A. Where any petroleum product together with any tool, vehicle or any item used in committing any such offence under sub-section (2) or sub-section (4) of section 15 are seized under this Act in the reasonable belief that such petroleum product has been stolen from the pipeline laid under section-7, the burden of proving that they are not stolen property shall be, in case where such seizure is made from the possession of any person,-

Burden of proof in certain cases.

(i) on the person from whose possession the property was seized, and

(ii) on the person who claims to be the owner thereof, if any person other than the person from whose possession the stolen property was seized.

Presumption regarding property.

16B. When any proceeding taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any petroleum product is the property of the corporation, the Court shall presume, unless the contrary is shown, that such petroleum product belongs to the corporation.

Provisions as to bail.

16C. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no person accused of an offence punishable under sub-section (4) of section 15 shall, if in custody, be released on bailor 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,

(2) The limitations on granting of bail specified in sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force on granting of bail. 2 of 1974

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973, 2 of 1974

Section 438 of the Code of Criminal Procedure, 1973 not to apply.

16D. Nothing in section 438 of the Code of Criminal Procedure, 1973 shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence punishable under sub-section (4) of section 15, 2 of 1974

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, 13th January 2012

The following Act of Parliament received the assent of the President on the 12th January 2012 and is hereby published for general information:—

THE COST AND WORKS ACCOUNTANTS (AMENDMENT) ACT, 2011.

ACT No. 10 of 2012

An Act further to amend the cost and works Accountants Act, 1959.

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

23 of 1959.

1. (1) This Act may be called the Cost and Works Accountants (Amendment) Act, 2011.

Short title and Commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 2 of the Cost and Works Accountants Act, 1959 (hereinafter referred to as the principal Act),—

Amendment of section-2.

(i) in sub-section (1),—

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

9 of 1932.

‘(ea) “firm” shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932, and includes,—

6 of 2009.

(i) the limited liability partnership as defined in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008; or

(ii) the sole proprietorship,

registered with the Institute;’;

(II) in clause (f), for the words “Institute of Cost and Works Accountants of India”, the words “Institute of Cost Accountants of India” shall be substituted;

(III) after clause (fa), the following clauses, shall be inserted, namely:-

9 of 1932.

‘(fb) “partner” shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932 or in clause (q) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008, as the case may be;

6 of 2009.

(fc) “partnership” means—

9 of 1932.

(A) a partnership as defined in section 4 of the Indian Partnership Act, 1932; or

(B) a limited liability partnership which has no company as its Partner;’;

(IV) after clause (ia), the following clause shall be inserted, namely:-

‘(iaa) “sole proprietorship” means an individual who engages himself in the practice of cost accountancy or offers to perform services referred to in clauses (ii) to (iv) of sub-section (2);’;

(ii) in sub-section (2),—

(a) after the words “in partnership with one or more members of the Institute in practice”, the words “or in partnership with members of such other recognised professions as may be prescribed” shall be inserted;

(b) in clause (i), for the words “cost and works accountancy”, the words “cost accountancy” shall be substituted;

(c) in clause (ii), for the words “certification of cost accounting and related statements or holds himself out to the public as a cost accountant in practice”, the words “certification or auditing of cost accounting and related statements or holds himself out to the public as a cost accountant in practice” shall be substituted.

- Amendment of section 3. **3.** In section 3 of the principal Act, in sub-section (1), for the words "Institute of Cost and Works Accountants of India", the words "Institute of Cost Accountants of India" shall be substituted.
- Amendment of section 5. **4.** In section 5 of the principal Act,—
 (a) in sub-section (2),—
 (i) for the letters "AICWA", the letters "ACMA" shall be substituted;
 (ii) for the words "Institute of Cost and Works Accountants", the words "Institute of Cost Accountants of India" shall be substituted;
 (b) in sub-section (5),—
 (i) for the letters "FICWA", the letters "FCMA" shall be substituted;
 (ii) for the words "Institute of Cost and Works Accountants", the words "Institute of Cost Accountants of India" shall be substituted.
- Amendment of section 22A. **5.** In section 22A of the principal Act, for the words "Institute of Cost and Works Accountants of India", the words "Institute of Cost Accountants of India" shall be substituted.
- Amendment of section 25. **6.** In section 25 of the principal Act, in sub-section (1), in clause (iii), for the words "cost and works accountants", the words "cost accountants" shall be substituted.
- Amendment of section 26. **7.** In section 26 of the principal Act, in sub-section (1), the following *Explanation* shall be inserted, namely:—
'Explanation.—For the removal of doubts, it is hereby declared that the "company" shall include any limited liability partnership which has company as its partner for the purposes of this section.'
- Amendment of First Schedule. **8.** In the First Schedule to the principal Act, in Part I, in item (7), for the words "Institute of Cost Accountants of India", the words "Institute of Cost Accountants of India" shall be substituted.

V.K. BHASIN,
 Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
 Additional Secretary to Government,
 Law Department.

New Delhi, the 13th January, 2012

The following Act of Parliament received the assent of the President on the 12th January 2012 and is hereby published for general information:—

THE EXPORT - IMPORT BANK OF INDIA (AMENDMENT) ACT, 2011

ACT No. 11 OF 2012

An Act further to amend the Export -Import Bank of India Act, 1981.

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

1. (1) This Act may be called the Export-Import Bank of India (Amendment) Act, 2011.

Short title and Commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

28 of 1981.

2. In section 4 of the Export-Import Bank of India Act, 1981 (hereinafter referred to as the principal Act), for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 4.

“(1) The authorised capital of the Exim Bank shall be ten thousand crores of rupees:

Provided that the Central Government may, by notification, increase the said capital up to an amount that it may deem necessary from time to time.”.

3. In section 6 of the principal Act,—

Amendment of section 6.

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

“(aa) two whole-time directors appointed by the Central Government;”;

(b) in sub-sections (2), (3), (4) and (5), after the words “the managing director” wherever they occur, the words “or the whole-time director” shall be inserted.

4. In section 8 of the principal Act, in the proviso, after the words “the managing director”, the words “or the whole-time director” shall be inserted.

Amendment of section 8.

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

THE FACTORING REGULATION ACT, 2011

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THE SCHEDULE.

New Delhi, the 23rd January, 2012

The following Act of Parliament received the assent of the President on the 22nd January, 2012 and is hereby published for general information:—

THE FACTORING REGULATION ACT, 2011

ACT No. 12 OF 2012

An Act to provide for and regulate assignment of receivables by making provision for registration therefor and rights and obligations of parties to contract for assignment of receivables and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Factoring Regulation Act, 2011.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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

(a) “assignment” means transfer by agreement, of undivided interest of any assignor in any receivable due from any debtor in favour of a factor and includes an assignment where either the assignor or the debtor, are situated or established outside India.

Explanation.—For the purposes of this clause, undivided interest of any assignor in any receivable shall not include creation of rights in receivables as security for loans and advances or other obligations by a bank or a financial institution;

(b) “assignee” means a factor in whose favour the receivable is transferred;

(c) “assignor” means any person who is the owner of any receivable;

(d) “bank” means,—

(i) a banking company;

(ii) a corresponding new bank;

(iii) the State Bank of India;

(iv) a subsidiary bank;

(v) such other bank which the Central Government may by notification specify for the purposes of this Act on the recommendations of the Reserve Bank; or

(vi) a Multi-State Co-operative Society registered under the Multi-State Co-operative Societies Act, 2002 and licensed to undertake business of banking by the Reserve Bank under the provisions of the Banking Regulation Act, 1949;

(e) “banking company” shall have the meaning assigned to it in clause (c) of section 5 of the Banking Regulation Act, 1949;

Short title,
extent and
commence-
ment.

Definitions.

(f) “business enterprise” means any enterprise or medium enterprise, micro enterprise or small enterprise as defined in clauses (e), (g), (h) and (m) of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006, respectively engaged in any business activity; 27 of 2006.

(g) “corresponding new bank” shall have the meaning assigned to it in clause (da) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(h) “debtor” means any person liable to the assignor, whether under a contract or otherwise, to pay any receivable or discharge any obligation in respect of the receivable whether existing, accruing, future, conditional or contingent;

(i) “factor” means a non-banking financial company as defined in clause (f) of section 45-1 of the Reserve Bank of India Act, 1934 which has been granted a certificate of registration under sub-section (1) of section 3 or any body corporate established under an Act of Parliament or any State Legislature or any Bank or any company registered under the Companies Act, 1956 engaged in the factoring business; 2 of 1934.
1 of 1956.

(j) “factoring business” means the business of acquisition of receivables of assignor by accepting assignment of such receivables or financing, whether by way of making loans or advances or otherwise against the security interest over any receivables but does not include-

(i) credit facilities provided by a bank in its ordinary course of business against security of receivables;

(ii) any activity as commission agent or otherwise for sale of agricultural produce or goods of any kind whatsoever or any activity relating to the production, storage, supply, distribution, acquisition or control of such produce or goods or provision of any services.

Explanation.—For the purposes of this clause—

(i) the expression “agricultural produce” shall have the meaning assigned to it under clause (a) of section 2 of the Agricultural Produce (Grading and Marking) Act, 1937; and 1 of 1937.

(ii) the expressions “goods” and “commission agent” shall have the meanings assigned to them respectively under clause (d) and Explanation (ii) of clause (1) of section 2 of the Forward Contracts (Regulation) Act, 1952; 74 of 1952.

(k) “financial contract” means any spot, forward, future, option or swap transaction involving interest rates, commodities, currencies, shares, bonds, debentures or any other financial instrument, any repurchase of securities and lending transaction or any other similar transaction or combination of such transactions entered into in the financial markets;

(l) “netting agreement” means any agreement among the system participants for the purpose of determination by the system provider of the amount of money or securities due or payable or deliverable as a result of setting off or adjusting the payment obligations or delivery obligations among the system participants, including the claims and obligations arising out of the termination by the system provider, on the insolvency or dissolution or winding up of any system participant or such circumstances as the system provider, may specify in its rules or regulations or bye-laws (by whatever name called), of the transactions admitted for settlement at a future date so that only a net claim be demanded or a net obligation be owned;

(m) “notification” means a notification published in the Official Gazette;

(n) “prescribed” means prescribed by rules made under this Act;

(o) “property” means,-

(i) the immovable property;

(ii) the movable property;

(iii) any debt or any right to receive payment of money, whether secured or unsecured;

(iv) the receivables;

(v) the intangible assets, being know-how, patent, copyright, design, trade mark, licence, franchise or any other business or commercial right of similar nature;

(p) "receivables" mean all or part of or undivided interest in any right of any person under a contract including an international contract where either the assignor or the debtor or the assignee is situated or established in a State outside India; to payment of a monetary sum whether such right is existing, future, accruing, conditional or contingent arising from and includes, any arrangement requiring payment of toll or any other sum, by whatever name called, for the use of any infrastructure facility or services;

2 of 1934. (q) "Reserve Bank", means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934;

23 of 1955. (r) "State Bank of India" means the State Bank of India constituted under section 3 of the State Bank of India Act, 1955;

38 of 1959. (s) "subsidiary Bank" shall have the meaning assigned to it in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959;

2 of 1934.
10 of 1949.
1 of 1956.
54 of 2002.
30 of 2005.
27 of 2006. (t) words and expressions used and not defined in this Act but defined in the Reserve Bank of India Act, 1934, the Banking Regulation Act, 1949, the Companies Act, 1956, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the Credit Information Companies (Regulation) Act, 2005, or the Micro, Small and Medium Enterprises Development Act, 2006, shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

REGISTRATION OF FACTORS

3. (1) No factor shall commence or carry on the factoring business unless it obtains a certificate of registration from the Reserve Bank to commence or carry on the factoring business under this Act.

Registration
of factors.

(2) Every factor shall make an application for registration to the Reserve Bank in such form and manner as it may specify:

Provided that a company registered as a non-banking financial company and existing on the commencement of this Act and engaged in factoring business as its principal business before such commencement shall make an application for registration as a factor to the Reserve Bank before the expiry of the period of six months from such commencement and, notwithstanding anything contained in sub-section (1), may continue to carry on the factoring business until a certificate of registration is issued to it or rejection of application for registration is communicated to it.

Explanation.—For the removal of doubts it is hereby clarified that a non-banking financial company engaged in factoring business shall be treated as engaged in factoring business as its "principal business" if it fulfils the following conditions, namely:-

(a) if its financial assets in the factoring business are more than fifty per cent. of its total assets or such per cent as may be stipulated by the Reserve Bank; and

(b) if its income from factoring business is more than fifty per cents of the gross income or such per cent as may be stipulated by the Reserve Bank.

(3) Every applicant for grant of a certificate of a registration as a factor shall comply, for the purpose of registration, with all the requirements to be fulfilled by

| | | |
|--|---|-------------|
| | <p>an applicant for grant of certificate of registration as non-banking financial company under the Reserve Bank of India Act, 1934 and all the provisions of that Act, so far as they relate to the registration of non-banking financial companies, shall (except those provided for under this Act) <i>mutatis mutandis</i> apply.</p> | 2 of 1934. |
| | <p>(4) In the case of existing non-banking financial company the Reserve Bank may issue a fresh certificate of registration as a factor, if the principal business of the non-banking financial company is the factoring business.</p> | |
| | <p>(5) Save as otherwise provided in this Act, every factor including factors not subject to requirement of registration under section 5, shall be governed by the Reserve Bank of India Act, 1934, the rules and regulations made thereunder and the directions or guidelines issued by the Reserve Bank, from time to time.</p> | 2 of 1934. |
| Provisions of non-banking financial companies apply to factor. | <p>4. All provisions of Chapter IIIB of the Reserve Bank of India Act, 1934 relating to non-banking financial companies which have been granted a certificate of registration under sub-section (5) of section 45-IA of the Reserve Bank of India Act, 1934 shall (except those specifically provided for under this Act) <i>mutatis mutandis</i> apply to a factor which has been granted a certificate of registration under section 3.</p> | 2 of 1934. |
| Requirement for registration a factor not to apply to bank or Statutory corporation or Government company. | <p>5. Nothing contained in section 3 shall apply to a bank or any corporation established under an Act of Parliament or State Legislature, or a Government Company as defined under section 617 of the Companies Act, 1956.</p> | 1 of 1956. |
| Powers of Reserve Bank to give directions and to collect information from factors. | <p>6. (1) The Reserve Bank may, at any time by general or special order, direct that every factor shall furnish to it, in such form, at such intervals and within such time, such statements, information or particulars relating to factoring business undertaken by the factor, as may be specified by the Reserve Bank from time to time.</p> <p>(2) The Reserve Bank may, if it considers necessary in the interest of business enterprises availing factoring services or in the interest of factors or interest of other stake holders give directions to the factors either generally or to any factor in particular or group of factors in respect of any matters relating to or connected with the factoring business undertaken by such factors.</p> <p>(3) If any factor fails to comply with any direction given by the Reserve Bank under sub-section (2), the Reserve Bank may prohibit such factor from undertaking the factoring business:</p> <p>Provided that before prohibiting any factor from undertaking the factoring business, the factor shall be given a reasonable opportunity of being heard.</p> | |
| CHAPTER III | | |
| ASSIGNMENT OF RECEIVABLES | | |
| Assignment of receivables. | <p>7. (1) Any assignor may, by an agreement in writing, assign any receivable due and payable to him by any debtor, to any factor, being the assignee, for a consideration as may be agreed between the assignor and the assignee and the assignor shall at the time of such assignment, disclose to the assignee any defences and right of set off that may be available to the debtor:</p> <p>Provided that if the debtor liable to pay the receivable or the business of factor is situated or established outside India, any assignment of receivable shall be subject to the provisions of the Foreign Exchange Management Act, 1999.</p> | 42 of 1999. |

(2) On execution of agreement in writing for assignment of receivables, all the rights, remedies and any security interest created over any property exclusively to secure the due payment of receivable shall vest in the assignee and the assignee shall have an absolute right to recover such receivable and exercise all the rights and remedies of the assignor whether by way of damages or otherwise, or whether notice of assignment as provided in section 8 is given or not.

(3) Any assignment of receivables which constitute security for repayment of any loan advanced by any Bank or other creditor and if the assignor has given notice of such encumbrance to the assignee, then on accepting assignment of such receivable, the assignee shall pay the consideration for such assignment to the Bank or the creditor, as the case may be.

8. Any assignee of a receivable shall not be entitled to demand payment of the receivable from the debtor in respect of such receivables unless notice of such assignment is given to the debtor by the assignor or the assignee along with express authority in its favour granted by the assignor.

Notice to debtor and discharge of obligation of such debtor.

9. Where a notice of assignment of receivable is given by the assignor or the assignee, as the case may be, under section 8 the debtor on receipt of such notice, shall make payment to the assignee and payment made to such assignee in discharge of any obligation in relation to the receivables specified in the notice shall fully discharge the debtor making the payment, from corresponding liability in respect of such payment.

Discharge of liability of debtor on payment to assignee.

10. Where no notice of assignment of receivables is given by the assignor or under his authority by the assignee, any payment made by the debtor in respect of such receivables to the assignor shall be held in trust for the benefit of the assignee which shall be forthwith be paid over to such assignee, as the case may be, or its agent duly authorised in this behalf.

Payment made by debtor to assignor to be held in trust for benefit of assignee in certain cases.

CHAPTER IV

RIGHTS AND OBLIGATIONS OF PARTIES TO CONTRACT FOR ASSIGNMENT OF RECEIVABLES

11. Without prejudice to the provisions contained in any other law for the time being in force, the debtor shall have the right to notice of assignment under section 8 before any demand is made on it by the assignee and until notice is served on the debtor, the debtor shall be entitled to make payments to the assignor in respect of assigned receivables in accordance with the original contract and such payment shall fully discharge the debtor from corresponding liability under the original contract.

Rights and obligations of parties to contract for assignment of receivables.

Explanation.—For the removal of doubts, it is hereby clarified that nothing contained in this section shall affect the rights of debtor to make payment to the assignee under section 9.

12. Where a notice of assignment as referred to in section 8 is served, the debtor shall,-

Liability of debtor.

(a) intimate the assignee the details of the deposits or advance or payment on account made to the assignor before the receipt of notice of assignment and also provide any other information to the assignee relating to the receivable as and when called upon by the assignee to do so;

(b) not be entitled to a valid discharge of his liability in respect of assigned receivables, unless he makes the payment due on an assigned receivables to the assignee.

Assignor to be trustee of assignee.

13. Notwithstanding anything to the contrary contained in any other law for the time being in force, where a debtor makes any payment to an assignor which represents payment due on an assigned receivable, such payment shall be deemed to be for the benefit of the assignee, and the assignor shall be deemed to have received the amount of such payment as a trustee of the assignee and the assignor shall make payment of such amount to the assignee.

Liability of debtor in case of an assignor being micro or small enterprises.

14. (1) If the assignor of receivables is a micro or small enterprise, the liability of the debtor to make payment due on assigned receivables shall be subject to the provisions contained in sections 15 to 17 of the Micro, Small and Medium Enterprises Development Act, 2006 with regards to the delayed payments of the receivables.

27 of 2006.

(2) In the event of delay in payment on the part of the debtor to pay the receivable of any micro or small enterprise, the assignee shall be entitled to receive interest for the delayed period and shall take steps under the provisions of the Micro, Small and Medium Enterprises Development Act, 2006 for the purpose of the recovery of the interest and shall pay such interest to the micro or small enterprise.

27 of 2006.

Principle of debtor protection.

15. (1) Save as otherwise provided in this Act, any assignment of the receivable shall not, without the express consent of the debtor in writing, affect the rights and obligations of the debtor (including the terms and conditions of the contract).

(2) Consequent upon the assignment of receivables, the payment instruction under the contract entered into between assignor and debtor may modify the name of person, address or account to which the debtor is required to make payment, but such instructions shall not modify:-

(a) the amount of debt specified in the original contract; or

(b) the place specified in the original contract at which payment is to be made or in case no such place is mentioned in the contract, the place of payment to a place other than where the debtor is situated; or

(c) the date on which payment is to be made or other terms of the original contract relating to payment.

Defences and right of set off of debtor.

16. In a claim by the assignee against the debtor for payment of the assigned receivable, the debtor may raise against the assignee,-

(a) all defences and right of set off arising from the original contract, entered into between the assignor and debtor or any other contract that was part of the same transaction, of which the debtor could avail himself as if the assignment had not been made and such claim were made by the assignor instead of assignee:

Provided that the assignee shall, unless otherwise agreed between the parties, be entitled to recover from the assignor, any loss suffered by it as a result of any such defences and right of set off being exercised by the debtor;

(b) any other right of set off if it was available to the debtor at the time notice, under section 8, of the assignment was received by the debtor.

Modification of original contract.

17. (1) Any agreement made before service of notice, under section 8, of the assignment of a receivable between the assignor and the debtor that affects the assignee's rights in respect of that receivable shall be effective as against the assignee, and the assignee shall acquire rights in the assigned receivables, as modified by such agreement.

(2) Any agreement made, after notice of the assignment between the assignor and the debtor that affects the assignee's rights, shall be ineffective as against the assignee unless—

(a) the assignee consents to it; or

(b) the receivable is not fully earned by performance and either the modification is provided for in the original contract or, in the context of the original contract, a reasonable assignee would consent to the modification.

(3) Nothing contained in sub-sections (1) and (2) shall affect any right of the assignor or the assignee arising from breach of an agreement between them.

18. If the assignor commits any breach of the original contract with the debtor, such breach shall not entitle the debtor to recover from the assignee any sum paid by the debtor to the assignor or the assignee pursuant to the factoring transactions:

Branch of contract.

Provided that nothing contained in this section shall affect the rights of the debtor to claim from the assignor any loss or damages caused to him by reason of breach of the original contract.

CHAPTER V

REGISTRATION OF ASSIGNMENTS

54 of 2002.

19. (1) Every factor shall file, for the purposes of registration, the particulars of every transaction of assignment of receivables in his favour with the Central Registry to be set-up under section 20 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, within a period of thirty days from the date of such assignment or from the date of establishment of such registry, as the case may be, in the manner and subject to payment of such fee as may be prescribed in this behalf.

Registration of certain assignments of receivables transactions.

Explanation.—For the purpose of filing of particulars of every transaction of assignment of receivables with the Central Registry, the receivables may be described specifically or generally with reference to the debtor, or the period to which they relate or by any other general description by which such receivables can be identified.

(2) For the purposes of this Act, a record called the Central Register shall be kept at the head office of the Central Registry for entering the particulars of the transactions relating to assignment of receivables in favour of a factor.

(3) On realisation of the assigned receivables or settlement of the claim against the debtors, the factor shall file satisfaction of the assignment of receivables in its favour, in such manner and subject to payment of such fees as may be prescribed in this behalf.

54 of 2002.

(4) The provisions for registration of transactions contained in the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the rules made thereunder shall, *mutatis mutandis*, apply to the record of assignment of receivables in favour of a factor in the Central Register with the Central Registry.

20. (1) The particulars of transactions of assignment of receivables entered in the Central Register of such transactions under section 19 shall be open during business hours for inspection by any person on payment of such fee as may be prescribed.

Public inspection.

(2) The Central Register referred to in sub-section (2) of section 19 maintained in electronic form, shall also be open during the business hours or such extended hours as may be specified by the Central Registry for inspection by any person through electronic media on payment of such fee as may be prescribed.

54 of 2002.

(3) The provisions for maintenance of Central Register and public inspection thereof contained in the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the rules made thereunder shall, *mutatis mutandis*, apply.

CHAPTER VI

OFFENCES AND PENALTIES

21. If a default is made in filing under section 19 the particulars of any transaction of assignment of receivables and realisation of receivables by a factor, such company and every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees for every day during which the default continues.

Penalties.

Penalties for non-compliance of direction of Reserve Bank.

22. (1) If any factor fails to comply with any direction issued by the Reserve Bank under section 6, the Reserve Bank may impose a penalty which may extend to five lakh rupees and in the case of a continuing offence, with an additional fine which may extend to ten thousand and rupees for every day during which the default continues.

(2) For the purpose of adjudging the penalty under sub-section (1), the Reserve Bank shall serve notice on the factor 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 factor.

(3) Any penalty imposed by the Reserve Bank under this section shall be payable within a period of fourteen days from the date on which notice issued by the Reserve Bank demanding payment of the sum is served on the factor and in the event of failure of the factor to pay the sum within such period, may be levied on a direction made by the principal civil court having jurisdiction in the area where the registered office of the factor is situated; or, in the case of a factor incorporated outside India, where its principal place of business in India is situated:

Provided that no such direction shall be made except on an application made to the court by the Reserve Bank or any officer authorised by Reserve Bank in this behalf.

(4) The court which makes a direction under sub-section (3) shall issue a certificate specifying the sum payable by the factor and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit.

Offences

23. If any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made thereunder, for which no specific penalty has been provided for, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Cognizance of offences.

24. (1) No Court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by an officer of the Reserve Bank, generally or specially authorised in writing in this behalf by the Reserve Bank.

(2) No Court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or a court superior thereto shall try any such offence punishable under this Act.

Offences by factors.

25. (1) Where an offence under this Act has been committed by a factor, every person who at the time the offence was committed was in charge of, and was responsible to, the factor, for the conduct of the business of the factor, as well as the factor, 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 Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a factor 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 factor, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section, a “director”, in relation to a factor means any officer entrusted with the management of the whole or substantially the affairs of the factor.

CHAPTER VII

MISCELLANEOUS

- 26.** The provisions of this Act 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.
- Provisions of this Act to override other laws.
- 27.** The provisions of this Act or the rules made thereunder shall be in addition to and not in derogation of the Negotiable Instruments Act, 1881, the Transfer of Property Act, 1882, the Reserve Bank of India Act, 1934, the Banking Regulation Act, 1949, the Companies Act, 1956, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the Micro, Small and Medium Enterprises Development Act, 2006 or any other law for the time being in force.
- Application of other laws not barred.
- 28.** No assignee of any receivable shall be entitled to take any measures for recovery of any assigned receivable, through any court or Tribunal unless his claim in respect of the receivable is made within the period of limitation specified under the Limitation Act, 1963.
- Limitations.
- 29.** Save as otherwise provided in this Act, or unless required to do so by an order passed by any Court or Tribunal or any other statutory authority under any provision of law for the time being in force or for the purpose of recovery of the receivable, a factor shall maintain confidentiality and shall not disclose to any person information obtained by it from, any assignor, its present and future customers, its commercial and business activities and the terms of sale between the assignor and any debtor and other detail about the assignor.
- Confidentiality of information.
- 30.** (1) The Central Government may, by notification in the public interest, direct that any of the provisions of this Act,—
- Power to exempt.
- (a) shall not apply to such class or classes of banks or a company or a factor; or
- (b) shall apply to the such class or classes of banks or a company or a factor with such exceptions, modifications and adaptations as may be specified in the notification.
- (2) A copy of every notification issued under sub-section (1), shall be laid 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 of immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both the Houses agree that the notification shall not be issued or, the notification shall 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 the notification.
- 31.** (1) The provisions of this Act shall not apply to any assignment of receivables to arising under or from the following transactions, namely:—
- Provisions of this Act not to apply or affect in certain cases.
- (a) any merger, acquisition or amalgamation of business activities or sale or change in the ownership or legal status of the business;
- (b) transactions on any stock exchange or commodities exchange regulated by the Securities and Exchange Board of India constituted under the provisions of the Securities and Exchange Board of India Act, 1992 or by the Forward Markets Commission under the Forward Contracts (Regulation) Act, 1952, respectively;
- (c) financial contracts governed by netting agreements, except a receivable owed on the termination of all outstanding transactions;
- (d) foreign exchange transactions except receivables in any foreign currency;
- 26 of 1881.
4 of 1882
2 of 1934
10 of 1949
1 of 1956
54 of 2002
27 of 2006.
- 36 of 1963.
- 15 of 1992.
74 of 1952.

(e) inter-bank payment systems, inter-bank payment agreements or clearance and settlement systems relating to securities or other financial assets or instruments;

(f) bank deposits;

(g) a letter of credit or independent guarantee;

(h) rights and obligations of any person under the law governing negotiable instruments, negotiable warehouse receipts under the Warehousing (Development and Regulation) Act, 2007 or to instruments which are for the time being, by law or custom negotiable or any mercantile document of title to goods;

37 of 2007.

(i) sale of goods or services for any personal, family or household use;

(j) any assignment of loan receivables by a bank or non-banking financial company to another bank or non-banking financial company;

(k) securitisation transactions (including assignment of receivables to special purpose vehicles or trusts that issue securities against such receivables, bought from a single debtor or single group of debtors).

(2) Nothing contained in this Act shall affect the rights and obligations of a consumer, manufacturer, trader or service provider under the provisions of the Consumer Protection Act, 1986.

68 of 1986.

Power of
Central
Government
to make
rules.

32. (1) The Central Government may, in consultation with the Reserve Bank, by notification and in the Electronic Gazette as defined in clause (5) of sub-section (1) of section 2 of the Information Technology Act, 2000 make rule for carrying out the provisions of this Act.

21 of 2000.

(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 form and manner in which the transactions of assignment of receivables in favour of a factor shall be filed and the fee for filing such a section under sub-section (1) of section 19;

(b) the form and manner in which satisfaction of assignment of receivable or settlement of the claim shall be registered and the fee for filing such transactions under sub-section 3 of section 19;

(c) fee for inspecting the Central Register under section 20; and

(d) any other matter which is required to be or may be prescribed, in respect of which provision is to be made or may be made by rules.

Laying of
rules.

33. Every rule made under this Act 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.

Power to
remove
difficulties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

35. The enactments specified in the Schedule shall be amended in the manner specified therein.

Amendments
to certain
enactments.

THE SCHEDULE

(See section 35)

| Year | Act No. | Short Title | Amendment |
|------|---------|---|---|
| 1899 | 2 | The Indian Stamp Act, 1899 | After section 8C, the following section shall be inserted, namely:- ‘8D. Agreement or document for assignment of receivables not liable to stamp duty:- Notwithstanding anything contained in this Act or any other law for the time being in force, any agreement or other document for assignment of “receivables” as defined in clause (P) of section 2 of the Factoring Regulation Act, 2011 in favour of any “factor” as defined in clause (i) of section 2 of the said Act shall not be liable to duty under this Act or any other law for the time being in force.’. |
| 1908 | 5 | The Code of Civil Procedure, 1908 | In Order XXXVII, in rule 1, in sub-rule (2), in clause (b), after sub-clause (iii), the following sub-clause shall be inserted, namely:— “(iv) suit for recovery of receivables instituted by any assignee of a receivable.”. |
| 1934 | 2 | The Reserve Bank of India Act, 1934 | In clause (d) of sub-section (1) of section 8, for the words “one Government official”, the words “two Government officials” shall be substituted.”. |
| 2005 | 30 | The Credit Infonnation Companies (Regulation) Act, 2005 | In section 2, in clause (f), after sub clause (i), the following sub-clause shall be inserted, namely:— “(iia) a factor as defmed under clause (l) of section 2 of the Factoring Regulation Act, 2011.”. |

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
Additional Secretary to Government,
Law Department.

THE ACADEMY OF SCIENTIFIC AND INNOVATIVE RESEARCH ACT 2011.

ARRANGEMENT OF SECTIONS

SECTIONS:

1. Short title, extent and commencement
2. Definitions.
3. Establishment of Academy of Scientific and Innovative Research.
4. Objects of Academy.
5. Relationship of Academy with Council of Scientific and Industrial Research.
6. Declaration of Academy as an institution of national importance.
7. Transfer of assets, liabilities, etc., of existing Academy to Academy established under this Act and other provisions, etc.
8. Functions and powers of Academy.
9. Academy open to all castes, creed, race or class.
10. Authorities of Academy.
11. Composition of Board of Governors.
12. Appointment of Chairperson.
13. Nomination of distinguished scientists or academicians of global eminence, eminent industrialists or technologists and heads of three premier institutions in the field of imparting education in science and technology.
14. Nomination of distinguished scientists or outstanding scientists of Council of Scientific and Industrial Research or Directors of Council of Scientific and Industrial Research laboratories.
15. Allowances payable to members of Board.
16. Term of office of members of Board.
17. Powers of Board.
18. Senate.
19. Powers of Senate.
20. Chancellor of Academy.
21. Director of Academy.
22. Appointment and duty of Director of Academy, etc.
23. Associate Directors.
24. Powers of other authorities.
25. Funds of Academy.
26. Accounts.
27. Audit of accounts and its publication.
28. Statutes.
29. Matters to be provided by Statutes.
30. Ordinances.
31. Review of functioning of Academy.
32. Appointments.
33. Conditions of service.
34. Arbitration.
35. Resignation, removal and suspension of Chairperson and other Members or Director.
36. Meetings.
37. Vacancies, etc., not to invalidate acts or proceedings of Board, Academy or any other body.
38. Power to remove difficulties.

New Delhi, the 7th February, 2012

The following Act of Parliament received the assent of the President on the 6th February, 2012 and is hereby published for general information.

THE ACADEMY OF SCIENTIFIC AND INNOVATIVE RESEARCH ACT, 2011

ACT No. 13 OF 2012

An Act to establish an Academy for furtherance of the advancement of learning and prosecution of research in the field of science and technology in association with Council of Scientific and Industrial Research and to declare the institution known as the Academy of Scientific and Innovative Research, to be an institution of national importance to ,provide for its incorporation and matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Academy of Scientific and Innovative Research Act, 2011.

Short title,
extent and
commence
ment.

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

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. In this Act, and in all Statutes and Ordinances made thereunder, unless the context otherwise requires,—

Definitions.

(a) “Academy” means the Academy of Scientific and Innovative Research established under sub-section (1) of section 3;

(b) “Board” means the Board of Governors of the Academy of Scientific and Innovative Research referred to in section 10;

(c) “Council of Scientific and Industrial Research” means a society registered by the name of the Council of Scientific and Industrial Research under the Societies Registration Act, 1860;

(d) “Chairperson” means the Chairperson of the Board appointed under section 12;

(e) “Chancellor” means the Chancellor of the Academy referred to in section 20;

(f) “Director” means the Director of the Academy appointed under section 22;

(g) “distinguished scientists” or “outstanding scientists” of the Council of Scientific and Industrial Research means scientists of the Council of Scientific and Industrial Research designated as such;

(h) “existing Academy” means the Academy of Scientific and Innovative Research established in pursuance of the Resolution of the Government of India in the Ministry of Science and Technology, Department of Scientific and Industrial Research, Council of Scientific and Industrial Research, vide No. 6/1/CSIR-AcSIR/2010-PPD, dated the 1st July, 2010;

(j) “Faculty of the Academy” means Academy Professors, Professors of Eminence, Distinguished Professors, Outstanding Professors, Senior Professors, Emeritus Professors, Professors, Associate Professors, Assistant Professors, visiting faculty, and such other persons as may be appointed for imparting instruction or conducting research in the Academy or institutions maintained by the Academy and includes the scientists of Council of Scientific and Industrial Research assigned for imparting instruction or conducting research;

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

(k) "Statutes and Ordinances" means the Statutes and the Ordinances of the Academy for the time being in force. .

Establishment of academy of Scientific and Immovative Research.

3. (1) With effect from such date as the Central Government may, by notification, appoint in this behalf, there shall be established for the purposes of this Act an Academy to be called the "Academy of Scientific and Innovative Research" as a body corporate by such name.

(2) The headquarters of the Academy shall be at such place as the Central Government may, by notification, specify.

(3) The Academy may have such number of regional centres and campuses, as it may deem fit.

(4) The Academy shall have perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and shall by that name, sue and be sued.

Objects of Academy.

4. (1) The objects of the Academy shall be to—

(a) disseminate advanced knowledge in science and technology, by providing teaching and research facilities in such branches of learning as it may deem fit, particularly in emerging areas and such areas as may emerge in future;

(b) undertake inter-disciplinary studies and research;

(c) conduct courses in, and integrate into its courses, inter-disciplinary and multi-disciplinary areas covering natural sciences, life sciences, mathematical and computational sciences, medical sciences, engineering, applied art, humanities, social sciences, law relating to these areas and interfaces thereof;

(d) take appropriate measures for innovations in teaching and learning processes;

(e) create an ambience for learning and scholarship in advanced science and technology instead of exclusively focusing on marks or grades;

(f) educate and train manpower in scientific and technological fields;

(g) establish linkages with industries in India and outside India for the promotion of science and technology;

(h) collaborate, in appropriate areas in the field of science and technology, with reputed universities and institutions in India or outside India;

(i) promote research in science and technology having a bearing on social, economic, cultural, intellectual and academic welfare of the people.

(2) The Academy shall primarily focus on research and imparting instruction in such areas as are not ordinarily taught in regular academic universities in India.

(3) The curricula, pedagogy and evaluation of the Academy shall be innovative and directed towards creating highest quality personnel with cross-disciplinary knowledge, aiming to provide leaders in the field of science and technology.

Relationship of Academy with council of Scientific and Industrial Research.

5. (1) The Academy shall be, provided, or, allowed to use, the infrastructure and scientific manpower of the Council of Scientific and Industrial Research for teaching and research purposes for mutual benefit.

(2) The Academy, within two weeks of the commencement of this Act, shall, notwithstanding anything contained in any other Act, rules, regulations or bye-laws for the time being in force, enter into a Memorandum of Understanding with the Council of Scientific and Industrial Research, for the purposes of its affiliation with the Academy for the purposes of academics, teaching and award of degrees or diplomas, and the persons pursuing the studies in the Council for award of any degree or diploma, after entering of such Memorandum of Understanding, be awarded degrees or diplomas by the said Academy:

Provided that any person pursuing any academic or research course, before the commencement of this Act, in the Council of Scientific and Industrial Research for award of any degree or diploma and registered for the said purpose with any other university, may, with the approval of the university with which such person is registered, migrate after such commencement to the Academy established under this Act and be registered with the said Academy for grant of the same degree or diploma by the Academy established under this Act and such person shall be deemed to have migrated and registered with the Academy established under this Act at the same level of study in the university from which such person migrated.

(3) Nothing contained in sub-section (1) or sub-section (2) shall be construed to affect the functions or powers of the Council of Scientific and Industrial Research, being discharged or exercised, before the commencement of this Act, by the Council or to affiliate with any other university or institution for the purposes of academics, teaching and award of degrees or diplomas or for any other purposes necessary for pursuing its objects.

6. It is hereby declared that the Academy of Scientific and Innovative Research shall be an institution of national importance.

Declaration of Academy as an institution of national importance.

7. (1) On and from the date of establishment of the Academy,—

Transfer of assets liabilities, etc., of existing Academy to Academy established under this Act and other provisions, etc.

(a) any reference to the existing Academy in any law other than this Act or in any contract or other instrument shall be deemed as a reference to the Academy;

(b) all properties and assets, movable and immovable, of, or belonging to, the existing Academy, shall vest in the Academy;

(c) all rights and liabilities of the existing Academy shall be transferred to, and be the rights and liabilities of, the Academy;

(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 Academy immediately before that date, for or in connection with the purpose of the said existing Academy shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Academy;

(e) all sums of money due to the existing Academy immediately before that date shall be deemed to be due to the Academy;

(f) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Academy immediately before that date may be continued or may be instituted by or against the Academy;

(g) every employee (including those appointed for imparting instruction or conducting research in the existing Academy) holding any office under the existing Academy or teaching therein immediately before that date shall hold his office in the Academy or continue teaching therein 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 Academy had not been established and shall continue to do so as an employee of the Academy or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Academy within such period.

(2) Any person, pursuing any academic or research course, before the commencement of this Act, in the existing Academy for award of any degree or diploma or certificate shall be entitled to pursue such academic or research course after the establishment of the Academy under this Act and be registered with the said Academy for grant of the same degree or diploma or certificate by the Academy established under this Act and such person shall be deemed to have migrated and registered with the Academy established under this Act at the same level of study in the existing Academy from which such person migrated.

(3) Any person, who immediately before the commencement of this Act, had been awarded a degree or diploma or certificate for having qualified any course by the existing Academy, shall be entitled to award of equivalent degree or diploma by the Academy subject to approval by the Board of the Academy.

(4) 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 Academy 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.

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Functions and powers of Academy.

8. (1) The Academy shall discharge its functions and exercise the following powers, namely:—

(i) to provide for instructions and conduct research in such branches of learning like natural sciences, life sciences, mathematical and computational sciences, medical sciences, engineering, applied art, humanities, social sciences, law relating to these areas and interfaces thereof, and in particular, in interdisciplinary and multi-disciplinary areas of these branches, and in all such areas as may emerge in future and other emerging areas of knowledge, as the Academy may from time to time determine and make provision for advancement and dissemination of knowledge;

(ii) to lay administrative standards and structures and decide on all matters of creation of posts, laying down standards for recruitment, determining compensation packages, and contractual arrangements;

(iii) to design its curriculum and pedagogy for award of diplomas or certificates and confer degrees or other academic distinctions as if may deem fit;

(iv) to grant, subject to such conditions as the Academy may determine, diplomas or certificates and confer degrees or other academic distinctions on the basis of such methods of evaluation and to hold its examinations, as the Academy may from time to time, determine and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(v) to frame Statutes and Ordinances and to alter, modify or rescind the same;

(vi) to organise and Undertake extramural studies, training and extension services;

(vii) to confer honorary degrees or other distinctions;

(viii) to provide distance education in such branches of learning and to such persons as it may determine;

(ix) to institute professorships, associate professorships and assistant professorships including Academy Professor, Professor of Eminence, Distinguished Professors, Outstanding Professors, Senior Professors, Emeritus Professors, or visiting positions and other teaching or academic or other positions, required by the Academy and to make appointments to such positions;

(x) to appoint persons from any other university, or institution, or industry, or persons of eminence from appropriate fields of studies, including those outside the country, as Faculty of the Academy;

(xi) to create administrative, ministerial and other posts and to make appointments thereto;

(xii) to co-operate or collaborate or associate with any body including, any university or institution, or industry, located in India or outside India;

(xiii) to establish such centres and specialised laboratories or other units for research and instruction as may be required; .

(xiv) to set up schools, centres and campuses and function therefrom or conduct classes from any place of its choice, including the premises of laboratories or other centres of the Council of Scientific and Industrial Research;

(xv) to institute and award fellowships, scholarships, studentships, medals and prizes;

(xvi) to conduct research, advisory and consultancy services with or for any entity, public or private, whether in India or outside India, which are in conformity with the spirit and object of the Academy;

(xvii) to engage scientists of the Council of Scientific and Industrial Research as Faculty in imparting instruction and conducting research in the Academy;

(xviii) to establish, maintain and manage institutions and hostels for residence of students or establish and maintain such institutions through the Council of Scientific and Industrial Research or any other body;

(xix) to fix, demand and receive payment of fees and other charges;

(xx) to determine the standards of admission to the Academy, which may include examination, other innovative models of testing or evaluation;

(xxi) to supervise the residences of the students of the Academy and to make arrangements for promoting their health, general welfare, cultural and corporate life;

(xxii) to lay down conditions of service for all categories of employees, including, their code of conduct;

(xxiii) to regulate and enforce discipline, among the students and employees and to take such disciplinary measures in this regard as may be necessary;

(xxiv) to make arrangements for promoting the health and general welfare of the employees;

(xxv) to receive grants, benefactions, donations, gifts, bequests and transfer or acquire, hold and manage and dispose of any property movable or immovable, including trust and endowment properties for the purposes of the Academy:

Provided that no such grants, benefactions, donations, gifts, bequests and transfer shall be accepted by the Academy which in the opinion of the Board involves conditions or obligations opposed to the spirit and object of this Act;

(xxvi) to borrow, on the security of property of the Academy or otherwise, money for the purposes of the Academy or utilise its property for such purposes as are in conformity with the spirit and object of this Act;

(xxvii) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

(2) In exercising its powers referred to in sub-section (1); it shall be the endeavour of the Academy to maintain an all-India character and high standards of teaching and research, and, the Academy shall, among other measures which may be necessary for the said purpose, take, in particular, the following measures, namely:-

(i) subject to the provisions of section 9, the admission of students shall be made on merit;

(ii) continuous evaluation or other innovative methods of evaluation and choice based credit system may be introduced and the Academy may enter into agreements with other universities and academic institutions in India or outside India for credit transfer and joint degree programmes;

(iii) innovative courses and programmes of studies shall be introduced with a provision for periodic review and restructuring;

(iv) the imparting of instruction shall be, as far as may be, through use of modern techniques or technologies;

(v) the systems and structures of the Academy should be flexible to adapt to the requirements of multi-disciplinary and inter-disciplinary studies;

(vi) active participation of students may be ensured in governance or academic matters of the Academy.

Academy open to all castes, creed, race or class.

9. (1) The Academy shall be open to all persons, of either sex, irrespective of caste, creed, race or class, and it shall not be lawful for the Academy to adopt or impose on any person, any test whatsoever of religious belief or profession in order to be entitled to be appointed as a Faculty of the Academy or to hold any other office therein, or to be employed therein or to be admitted as a student in the Academy or to graduate thereat or to enjoy or exercise any privilege thereof.

(2) The Academy shall make special provision for the employment or admission of women, persons with disabilities or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes, the Scheduled Tribes and the other socially and educationally backward classes of citizens and any exemption from making such reservation under the proviso to clause (b) of section 4 of the Central Educational Institutions (Reservation in Admission) Act, 2006 shall not be applicable to the Academy:

5 of 2007.

Provided that no such special provision shall be made on the ground of domicile.

Authorities of Academy.

10. The following shall be the authorities of the Academy, namely:-

(a) The Board;

(b) Senate;

(c) Director;

(d) Boards of Studies;

(e) such other authorities as may be declared by the Statutes to be the authorities of the Academy.

Composition of Board of Governors.

11. (1) The Board referred to in clause (a) of section 10 shall consist of the following, namely:-

(a) the Chairperson of the Board, to be appointed under section 12;

(b) the Director-General of the Council of Scientific and Industrial Research, *ex officio* Vice-Chairperson;

(c) the President of the Indian National Science Academy, *ex officio* member;

(d) the Chairman, Atomic Energy Commission, Government of India, *ex officio* member;

(e) the Chairman, Space Commission, Government of India, *ex officio* member;

(f) the Chairman, University Grants Commission, Government of India, *ex officio* member;

(g) the Finance Secretary in the Ministry of Finance, Government of India, *ex officio* member;

(h) the heads of three premier institutions in the field of imparting education in Science and Technology, members to be nominated under section 13;

(i) four distinguished scientists or academicians of global eminence, of which two should be from reputed institutions outside India, members to be nominated under section 13;

(j) three eminent industrialists or technologists, members to be nominated under section 13;

(k) four distinguished scientists or outstanding scientists or Directors of laboratories of Council of Scientific and Industrial Research, members to be nominated under section 14;

(l) the Director of the Academy, ex officio member.

(2) The Chairperson shall ordinarily preside over the meetings of the Board.

(3) The Board may evolve its own procedure for the purpose of conducting its meetings and transacting business therein.

(4) The Associate Director in charge of administration of the Academy shall be the Secretary of the Board.

12. (1) The Chairperson shall be appointed by the President of the Council of Scientific and Industrial Research, on the recommendation of the selection committee constituted under sub-section (2):

Appointment
of
Chairperson.

Provided that the Director-General of the Council of Scientific and Industrial Research, being the *ex officio* Vice-Chairperson, as referred to in clause (b) of sub-section (1) of section II, shall act as the Chairperson until the first Chairperson is selected and appointed in accordance with the provisions of this Act:

Provided further that no person shall be selected and appointed as Chairperson unless such person is an Indian citizen.

(2) The selection committee referred to in sub-section (1) shall consist of eminent scientists or technologists of international repute, as may be nominated by the President of the Council of Scientific and Industrial Research.

(3) At least two eminent scientists or technologists of international repute nominated under sub-section (2) shall be from the heads of international societies, academies, or similar organisations in the field of science and technology.

(4) The selection committee referred to in sub-section (2) shall-

(a) be constituted within six months before the completion of tenure of the incumbent as the Chairperson of the Board;

(b) submit its recommendation at least three months before the completion of the tenure of the incumbent Chairperson.

(5) The selection committee may evolve its own procedure for the purposes of meetings and making recommendations under sub-section (1) including making recommendations in respect of a person who has not applied for the post of Chairperson.

(6) Three members of the selection committee referred to in sub-section (1) shall form Quorum for the meeting of the committee.

(7) The Chairperson shall exercise such other powers and perform such other functions as may be assigned to him by this Act or the Statutes.

Nomination of distinguished scientists or academicians of global eminence, eminent industrialists or technologists and heads of three premier institutions in the field of imparting education in science and technology.

13. The heads of three premier institutions in the field of imparting education in science and technology, referred to in clause (h), the distinguished scientists or academicians of global eminence referred to in clause (i), and eminent industrialists or technologists referred to in clause (j), of sub-section (1) of section II, shall be nominated, by the President of the Council of Scientific and Industrial Research.

Nomination of distinguished scientists or outstanding scientists of Council of Scientific and Industrial Research or Directors of Council of Scientific and Industrial Research laboratories.

14. The nomination of distinguished scientists or outstanding scientists of the Council of Scientific and Industrial Research or Directors of Council of Scientific and Industrial Research laboratories, referred to in clause (k) of sub-section (1) of section II shall be made by the Governing Body of the Council of Scientific and Industrial Research.

Allowances payable to members of Board.

15. The members of the Board shall be entitled to such allowances, if any, from the Academy, as may be provided for, in the Statutes but no member other than the Director of the Academy referred to in clause (l) of sub-section (1) of section II, shall be entitled to any salary by reason of this section.

Term of office of members of Board.

16. (1) Save as otherwise provided in this section, term of office of the Chairperson or any other nominated member of the Board shall be four years, being one term of the Board and they shall not be eligible to be re-appointed as Chairperson or nominated as a member, as the case may be.

Explanation I.—The period of term of office of the Chairperson or any other nominated member of the Board [other than *ex officio* Vice-Chairperson and *ex officio* members and nominated members under clause (k) of sub-section (1) of section 11] of the existing Academy shall be counted for the purposes of this sub-section.

Explanation II.—For the removal of doubt it is hereby declared that a person who held the office of a member shall not be eligible to be re-appointed as a member but may be appointed as the Chairperson in accordance with the provisions of this Act:

Provided that an outgoing member of the Board shall, unless or otherwise directed, continue in office until another person is appointed, or, as the case may be, nominated as a member in his place.

(2) In the event of vacancy in the office of the Chairperson, by reason of his death or resignation or otherwise, the Vice-Chairperson shall act as the Chairperson until a new Chairperson is appointed in accordance with the provisions of this Act to fill the vacancy and enter upon his office:

Provided that a person appointed due to a vacancy in the office of Chairperson under sub-section (2), shall be eligible to be appointed as Chairperson in accordance with the provisions of this Act only for one term in addition to the period for which he was appointed to fill the vacancy of Chairperson.

(3) In the event of vacancy in the office of a nominated member under clauses (h), (i), (j) and (k) of sub-section (1) of section 11 by reason of his death or resignation or otherwise, the vacancy shall be filled in accordance with the provisions of this Act:

Provided that a person nominated under sub-section (1) of section 11 due to a vacancy in the office of the member, such person shall be eligible to be nominated only for one term as member in accordance with the provisions of this Act, in addition to the period for which he was nominated to fill the vacancy.

(4) The term of office of an *ex officio* member shall continue as long as he holds the office by virtue of which he is a member.

(5) One-fourth of the members, being distinguished scientists or outstanding scientists or Directors of laboratories of the Council of Scientific and Industrial Research nominated under clause (k) of sub-section (1) of section 11 shall retire every year and new members shall be nominated in their place in accordance with the provisions of this Act:

Provided that, notwithstanding anything contained in this sub-section, the members, being distinguished scientists or outstanding scientists of the Council of Scientific and Industrial Research or Directors of the Council of Scientific and Industrial Research laboratories nominated under clause (k) of sub-section (1) of section 11, immediately after the commencement of this Act for the first time, may hold office for such period, as may be specified in their nomination and provisions of this sub-section shall not be applicable to such nominated members.

17. (1) Subject to the provisions of this Act, the Board shall be responsible for the general superintendence, direction and control of the affairs of the Academy and shall exercise all the powers of the Academy not otherwise provided for by this Act, the Statutes and the Ordinances, and shall have the power to review the acts of the Senate.

Powers of Board.

(2) Without prejudice to the provisions of sub-section (1), the Board shall have the powers to-

(a) take decisions on questions of policy relating to the administration and working of the Academy;

(b) institute courses of study at the Academy;

(c) make Statutes;

(d) institute and appoint persons to academic as well as other posts in the Academy;

(e) consider and modify or cancel or rescind Ordinances;

(f) consider and pass resolutions on the annual report, the annual accounts and the budget estimates of the Academy for the next financial year, together with a statement of its development plans;

(g) approve investments in infrastructure of the Academy in any land or building;

(h) exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes.

(3) The Board shall also have the power to appoint such committees of one or more persons as it considers necessary for exercise of its powers and the performance of its duties and hold enquiries under this Act.

18. (1) The Senate shall consist of the following, namely:-

Senate.

(a) the Director, *ex officio*, who shall be the Chairperson of the Senate;

(b) all Associate Directors, *ex officio* members;

(c) all Deans of the Academy, *ex officio* members;

(d) two Professors from each area of study represented by the Boards of Studies of the Academy, as may be nominated by the Board, *ex officio* members;

(e) two scientists of the Council of Scientific and Industrial Research, who being the youngest in age; and recipient of Shanti Swaroop Bhatnagar Award; and who are also Faculty of the Academy, as may be nominated by the Director-General of the Council of Scientific and Industrial Research;

(f) two scientists of the Council of Scientific and Industrial Research, who being the youngest in age; and recipient of CSIR- Young Scientist Award; and who are Faculty of the Academy, as may be nominated by the Director-General of the Council of Scientific and Industrial Research;

(g) three Directors or distinguished scientists or outstanding scientists of the Council of Scientific and Industrial Research laboratories, nominated by its Director-General;

(h) three persons, not being the employees of the Academy or the Council of Scientific and Industrial Research, to be nominated by the Chancellor in consultation with the Director from amongst educationists of repute, one being from each of the fields of science, engineering and social sciences;

(i) such other members of the staff as may be laid down in the Statutes.

(2) The tenure of the, nominated members under clauses (d) to (h) of sub-section (1) shall be two years:

Provided that the Senate shall not, at any time, have less than fifty per cent. of its members from the Council of Scientific and Industrial Research scientists teaching in the Academy.

Powers of Senate.

19. Subject to the provisions of this Act, the Statutes and the Ordinances, the Senate of the Academy shall have the control and general regulation, and be responsible for the maintenance, of standards of instruction, education and examinations in the Academy and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes and Ordinances.

Chancellor of Academy.

20. (1) The Chairperson of the Board shall be the Chancellor of the Academy.'

(2) The Chancellor shall ordinarily preside at the Convocations of the Academy.

Director of Academy

21. The Director shall be the principal academic and executive officer of the Academy and shall be responsible for the administration of the Academy and imparting instruction, research and maintenance of discipline.

Appointment and duty of Director of Academy, etc.

22. (1) The Director shall be appointed, by the President of the Council of Scientific and Industrial Research, on the recommendation of the selection committee constituted under sub-section (2).

(2) The selection committee referred to in sub-section (1) shall consist of-

(a) the Chairperson of the Board;

(b) the Vice-Chairperson of the Board;

(c) the President of the Indian National Science Academy;

(d) the Chairman, Atomic Energy Commission, Government of India;

(e) the Chairman, Space Commission, Government of India.

(3) The selection committee referred to in sub-section (2) shall—

(a) be constituted within six months before the completion of tenure of the incumbent as the Director;

(b) submit its recommendation atleast three months before the completion of the tenure of the incumbent Director.

(4) The selection committee may evolve its own procedure for the purposes of meetings and making recommendations under sub-section (1) including making recommendations in respect of a person who has not applied for the post of Director.

(5) Three members of the selection committee referred to in sub-section (1) shall form quorum for the meeting of the committee:

Provided that no person shall be selected or nominated as Director unless such person is an Indian citizen.

(6) It shall be the duty of the Director that the decisions taken by the Board are implemented.

(7) The Director shall submit an annual report and accounts of the Academy to the Board.

(8) The Director shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or the Ordinances.

(9) The term of the Director shall be five years.

23. (1) The Associate Directors of the Academy shall, be appointed by the Director with the approval of the Board, from amongst Professors of the Academy or scientists of the Council of Scientific and Industrial Research engaged in academic activity in the Academy, for such period, and on such terms and conditions, as may be laid down by the Statutes, and, shall exercise such powers and perform such duties as may be assigned to them by this Act or the Statutes or by the Director.

Associate
Directors.

(2) The Board may assign any other designation for the Associate Directors, for the purpose of administrative convenience or academic efficiency.

24. (1) The constitution and powers of Board of Studies shall be such as may be provided in the Statutes.

Powers of
other
authorities.

(2) The powers, including the financial powers and duties of authorities, officers and other functionaries of the Academy shall be as provided by the Statutes.

25. (1) The Academy shall maintain and retain a fund to which shall be credited—

Funds of
Academy.

(a) all fees (including tuition fees) and other charges received by the Academy;

(b) all monies received by the Academy by way of grants, gifts, donations, benefactions, bequests or transfers;

(c) monies for projects undertaken by the Academy;

(d) income from investment made by the Academy or from any other source;

(e) the funds received from the Council of Scientific and Industrial Research, by way of loan or otherwise;

(f) all monies received by the Academy in any other manner or from any other source.

(2) All monies credited to the fund of the Academy shall be deposited in such banks or invested in such manner as the Academy may, with the approval of the Board, decide.

(3) The fund shall be applied for meeting,—

(a) the salaries, allowances and other remuneration of the Chairperson, members of the Board or Faculty, officers and other employees or members of the committees set up by the Academy;

(b) the expenses of the Academy in the discharge of its functions or exercise of its powers under section 8;

(c) the expenses on objects of, and for purposes authorised by, this Act.

(4) All expenditure of the Academy shall be within the framework of a budget approved by the Board.

Accounts.

26. (1) The Academy shall maintain proper and separate accounts giving therein the details of all receipts in, and, expenditure from, such fund and other relevant particulars.

(2) The accounts referred to in sub-section (1) shall be prepared and got audited before the expiry of six months from the end of each financial year.

(3) The Academy shall submit to the Board and the Council of Scientific and Industrial Research, the accounts referred to in sub-section (1) duly audited under section 27 and signed by the Director, Associate Director in charge of Finance and Associate Director in charge of Administration.

(4) The Council of Scientific and Industrial Research referred to in sub-section (3), the Board and any other person appointed by them in connection with the audit of the accounts of the Academy 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 Academy.

Audit of
accounts and
its
publication.

27. (1) The accounts of the Academy shall, without prejudice to the provisions contained in the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971, be audited by auditors who may be appointed by the Board for the term of one year and such auditors shall be eligible for re-appointment.

56 of 1971.

(2) No person shall be eligible to be appointed as an auditor under sub-section (1) unless he is a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949, and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act.

38 of 1949.

(3) The accounts of the Academy shall, after the completion of the audit under sub-section (1) and submission thereof to the Board and the Council of Scientific and Industrial Research be published on the website of the Academy.

Statutes.

28. (1) The Statutes of the Academy shall be enacted by the Board.

(2) Without prejudice to the provisions contained in sub-section (1), the Senate may make recommendations for enactment of Statutes to the Board.

(3) The Board may, from time to time, make new Statutes or may amend or repeal or rescind the Statutes with effect from such date as it may direct.

Matters to be
provided by
Statutes.

29. Subject to the provisions of this Act, the Statutes may provide for all or any of the matters considered necessary by the Board for functioning of the Academy within the framework of this Act, including the following matters, namely:—

(a) the conferment of degrees and diplomas;

(b) the constitution, powers and functions of the Board of Studies;

(c) the tuition fee and other fees to be charged;

(d) the institution of fellowships, scholarships, medals and prizes;

(e) the term of office and the method of appointment of officers of the Academy;

(f) the qualification of Faculty of the Academy (other than the scientists of the Council of Scientific and Industrial Research engaged in the service of the Academy), officers and other staff of Academy;

Provided that the scientists of the Council of Scientific and Industrial Research engaged in the service of the Academy shall be governed by the qualifications specified by the Council and nothing contained in this Act shall be construed to disqualify them from undertaking the service of the Academy or engaging them as Faculty of the Academy;

(g) the classification, the method of appointment and the determination of the terms and conditions of service of Faculty, officers and other staff of the Academy;

(h) the provision of insurance fund, provident fund and other retirement benefits, for the benefit of the Faculty, officers and other staff of the Academy;

(i) the constitution, powers and duties of authorities of the Academy;

(j) the establishment and maintenance of hostels;

(k) the conditions of residence of students of the Academy and the levying of fees for residence in the hostels and of other charges;

(l) the allowances to be paid to the Chairperson and other members of the Board and any committee constituted by the Academy;

(m) the meetings of the Board, the Senate, or any committee, the quorum at such meetings and the procedure to be followed in the conduct of their business;

(n) any other matter which may be required or necessary for the purposes of this Act.

30. (1) Subject to the provisions of this Act and the Statutes, the Ordinances of the Academy may provide for all or any of the following matters, namely:—

Ordinances.

(a) the admission of the students;

(b) the courses of study;

(c) the conditions under which students shall be admitted and shall be eligible for degrees, diplomas and certificates and to the examinations of the Academy, and shall be eligible for the degrees, diplomas and certificates;

(d) the conditions of award of the fellowships, scholarships, medals and prizes;

(e) the condition and mode of appointment and duties of examining bodies, examiners and moderators;

(f) the conduct of examinations;

(g) the maintenance of discipline among students of the Academy;

(h) any other matter which by this Act or the Statute, is to be, or, may be, provided for by the Ordinances.

(2) Save as otherwise provided in this section, Ordinances shall be made by the Senate.

(3) All Ordinances made by the Senate shall have the effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Board and shall be considered by the Board in its subsequent meeting.

(4) The Board shall have the power by resolution to modify or cancel or rescind any of the Ordinances and such Ordinances shall, from the date of such resolution stand modified accordingly or cancelled or rescinded, as the case may be.

Review of functioning of Academy.

31. (1) There shall be a review of the functioning of the Academy once in every four years by persons of eminence to be appointed by the Council of Scientific and Industrial Research.

(2) The Academy shall meet the expenses for conducting the review under sub-section (1) and upon receipt of the report of such review, the Board may take appropriate action.

(3) In addition to the review under sub-section (1), the Board may conduct review of functioning of administrative and academic wings of the Academy, in such manner and at such intervals, as may be provided in the Statutes.

Appointments.

32. All appointments of the staff of the Academy (except appointment of the Director), shall be made in accordance with the procedure laid down in the Statute, by—

(a) the Board for the academic staff;

(b) the Director, in any other case.

Conditions of service.

33. (1) Every employee of the Academy shall be appointed on contractual basis under a written contract, which shall be lodged with the Academy and a copy of which shall be furnished to the employee concerned:

Provided that all scientists and other employees of the Council of Scientific and Industrial Research engaged in the service of the Academy shall be governed by the service conditions, rules and regulations of the Council of Scientific and Industrial Research.

(2) The Academy shall have a flexible compensation system which recognises performance, as laid down in the Statutes, to bring the best talent in the Academy:

Provided that the scientists of the Council of Scientific and Industrial Research

(a) engaged in the service of the Academy; and

(b) who draw their salary from the Council,

shall be eligible for such allowances or honorarium, as may be determined by the Statute.

Arbitration.

34. (1) Any dispute arising out of a contract between the Academy and any of its employees shall, at the request of the employee concerned or at the instance of the Academy, be referred to a Tribunal of Arbitration consisting of one member appointed by the Director, one member nominated by the employee, and such two arbitrators shall appoint the third arbitrator who shall act as the presiding arbitrator.

(2) The arbitration under sub-section (1) shall be governed by the Arbitration and Conciliation Act, 1996.

26 of 1996.

Resignations, removal and suspension of chairperson and other Members or Director.

35. (1) The Chairperson or any Member of the Board other than *ex officio* Members of the Board or Director may, by notice in writing under his hand addressed to the President of the Council of Scientific and Industrial Research, resign his office:

Provided that the Chairperson or such Member or Director shall, unless he is permitted by the President of the Council of Scientific and Industrial Research 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 President of the Council of Scientific and Industrial Research may remove from office the Chairperson or any Member of the Board or the Directors who-

(a) has been adjudged an insolvent; or

(b) being the Director has engaged at any time, during his term of office, in any paid employment; or

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(d) has become physically or mentally incapable of acting as such Chairperson or Member or Director; or

(e) is of unsound mind and stands so declared by a competent court; or

(f) has acquired such financial or other interest as is likely to affect prejudicially the exercise of his functions as such Chairperson or Member or Director; or

(g) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(h) has been guilty of proved misbehaviour; or

(i) has such other disqualifications as may be prescribed.

(3) Notwithstanding anything contained in sub-section (1), the Chairperson or a Member of the Board or the Director shall not be removed from his office on the grounds specified in clause (f), or clause (g) or clause (h) of sub-section (1), except by an order made by the President of the Council of Scientific and Industrial Research after an inquiry made in this behalf in which such Chairperson or Member or Director has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(4) In the event of inquiry instituted under sub-section (2), the President of the Council of Scientific and Industrial Research may suspend such Chairperson or Member or Director against whom inquiry has been instituted for a period not exceeding six months if it is considered necessary in public interest.

(5) The President of the Council of Scientific and Industrial Research may, by rules, regulate the procedure for the inquiry referred to in sub-section (2).

(6) In case any nominated member under clause (k) of sub-section (1) of section 11 in the Board incurs any of the disqualifications under clauses (a) to (i) of sub-section (1), such nominated member shall not be eligible to be nominated as such and his nomination as nominated member shall be revoked by those who nominated such member.

36. The meetings of the Board, Senate, or other committees constituted by the Academy may be held using contemporary tools of information and communication technologies (including video-conferencing) without the members necessarily having to be physically present.

Meetings.

37. No act of the Board or the Academy or any other body set up under this Act or the Statutes, shall be invalid merely by reason of—

Vacancies, etc., not to invalidate acts or proceedings of Board, Academy or any other body.

(a) any vacancy in, or defect in the constitution thereof; or

(b) any defect in the selection, nomination or appointment of a person acting as a member thereof; or

(c) any irregularity in its procedure not affecting the merits of the case.

38. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Powers to remove difficulties.

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under sub-section (1) 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 order or both Houses agree that the order should not be made, the order 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 order.

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*