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Part IV—Section 4

CENTRAL ACTS AND ORDINANCES

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

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, 19th August, 2010

The following Act of Parliament received the assent of the President on the 18th August, 2010 and is hereby published for general information.

THE INDUSTRIAL DISPUTES (AMENDMENT) ACT, 2010

(ACT No. 24 OF 2010.)

An Act further to amend the Industrial Disputes Act, 1947.

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

Short title and
Commencement.

1. (1) This Act may be called the Industrial Disputes (Amendment) Act, 2010.

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

Amendment
of section 2.

2. In the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), in section 2,—

14 of 1947

(i) in clause (a),—

(a) in sub-clause (i), for the words “major port, the Central Government, and”, the words “major post, any company in which not less than fifty-one percent. of the paid-up share capital is held by the Central Government, or any corporation, not being a corporation referred to in this clause, established by or under any law made by Parliament, or the central public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the Central Government, the Central Government, and” shall be substituted;

(b) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) in relation to any other industrial dispute, including the State public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the State Government, the State Government:

Provided that in case of a dispute between a contractor and the contract labour employed through the contractor in any industrial establishment where such dispute first arose, the appropriate Government shall be the Central Government or the State Government, as the case may be, which has control over such industrial establishment.”;

(ii) in clause (s), in sub-clause (iv), for the words “one thousand six hundred rupees”, the words “ten thousand rupees” shall be substituted.

Amendment
of
section 2A.

3. Section 2A of the principal Act shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely:—

“(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate

Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).”.

4. In section 7 of the principal Act, in sub-section (3), after clause (e), the following clauses shall be inserted, namely:—

Amendment of section 7.

“(f) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years’ experience in the labour department including three years of experience as Conciliation Officer:

Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or

(g) he is an officer of Indian Legal Service in Grade III with three years’ experience in the grade.”.

5. In section 7 A of the principal Act, in sub-section (3), after clause (aa), the following clauses shall be inserted, namely:—

Amendment of section 7A.

“(b) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years’ experience in the labour department including three years of experience as Conciliation Officer:

Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or

(c) he is an officer of Indian Legal Service in Grade III with three years’ experience in the grade.

6. After section 9B of the principal Act, for Chapter IIB, the following Chapter shall be substituted, namely:—

Substitution of new Chapter for Chapter IIB.

“CHAPTER IIB

GRIEVANCE REDRESSAL MACHINERY.

9C. (1) Every industrial establishment employing twenty or more workmen shall have one or more Grievance Redressal Committee for the resolution of disputes arising out of individual grievances.

Setting up of Grievance Redressal Machinery.

(2) The Grievance Redressal Committee shall consist of equal number of members from the employer and the workmen.

(3) The chairperson of the Grievance Redressal Committee shall be selected from the employer and from among the workmen alternatively on rotation basis every year.

(4) The total number of members of the Grievance Redressal Committee shall not exceed more than six:

Provided that there shall be, as far as practicable, one woman member if the Grievance Redressal Committee has two members and in case the number of members are more than two, the number of women members may be increased proportionately.

(5) Notwithstanding anything contained in this section, the setting up of Grievance Redressal Committee shall not affect the right of the workman to raise industrial dispute on the same matter under the provisions of this Act.

(6) The Grievance Redressal Committee may complete its proceedings within thirty days on receipt of a written application by or on behalf of the aggrieved party.

(7) The workman who is aggrieved of the decision of the Grievance Redressal Committee may prefer an appeal to the employer against the decision of Grievance Redressal Committee and the employer shall, within one month from the date of receipt of such appeal, dispose off the same and send a copy of his decision to the workman concerned.

(8) Nothing contained in this section shall apply to the workmen for whom there is an established Grievance Redressal Mechanism in the establishment concerned."

Amendment of section 11.

7. In section 11 of the principal Act, after sub-section (8), the following sub-sections shall be inserted, namely:—

"(9) Every award made, order issued or settlement arrived at by or before Labour Court or Tribunal or National Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a Civil Court under order 21 of the Code of Civil Procedure, 1908.

5 of 1908.

(10) The Labour Court or Tribunal or National Tribunal, as the case may be, shall transmit any award, order or settlement to a Civil Court having jurisdiction and such Civil Court shall execute the award, order or settlement as if it were a decree passed by it."

Amendment of section 38.

8. In section 38 of the principal Act, in sub-section (2),-

(i) clause (ab) shall be omitted;

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

"(c) the salaries and allowances and the terms and conditions for appointment of the presiding officers of the Labour Court, Tribunal and the National Tribunal including the allowances admissible to members of Courts, Boards and to assessors and witnesses;"

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, 20th August, 2010

The following Act of Parliament received the assent of the President on the 19th August, 2010 and is hereby published for general information:—

THE FOREIGN TRADE (DEVELOPMENT AND REGULATION)
AMENDMENT ACT, 2010.

ACT No. 25 OF 2010.

An Act to amend the Foreign trade (Development and Regulation) Act, 1992.

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

1. (1) This Act may be called the Foreign Trade (Development and Regulation) Amendment Act, 2010.

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:

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

22 of 1992.

2. In section 2 of the Foreign Trade (Development and Regulation) Act, 1992 (hereinafter referred to as the principal Act),—

Amendment of section 2.

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

'(e) "import" and "export" means,—

(/) in relation to goods, bringing into, or taking out of, India any goods by land, sea or air;

(//) in relation to services or technology,—

(i) supplying, services or technology-

(A) from the territory of another country into the territory of India;

(B) in the territory of another country to an Indian service consumer;

(C) by a service supplier of another country, through commercial presence in India;

(D) by a service supplier of another country, through presence of their natural persons in India;

(ii) supplying, services or technology-

(A) from India into the territory of any other country;

(B) in India to the service consumer of any other country;

(C) by a service supplier of India, through commercial presence in the territory of any other country;

(D) by a service supplier of India, through presence of Indian natural persons in the territory of any other country:

Provided that "import" and "export" in relation to the goods, services and technology regarding Special Economic Zone or between two Special Economic Zones shall be governed in accordance with the provisions contained in the Special Economic Zones Act, 2005.;

28 of 2005.

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

'(j) "services" means service of any description which is made available to potential users and includes all the tradable services specified under the General Agreement on Trade in Services entered into amongst India and other countries who are party to the said Agreement:

Provided that, this definition shall not apply to the domain of taxation;

(k) “service supplier” means any person who supplies a service and who intends to take benefit under the foreign trade policy;

(l) “specified goods or services or technology” means the goods or services or technology, the export, import, transfer, re-transfer, transit and trans-shipment of which is prohibited or restricted because of imposition of conditions on the grounds of their being pertinent or relevant to India as a Nuclear Weapon State, or to the national security of India, or to the furtherance of its foreign policy or its international obligations under any bilateral, multilateral or international treaty, covenant, convention or arrangement relating to weapons of mass destruction or their means of delivery to which India is a party or its agreement with a foreign country under the foreign trade policy formulated and notified under section 5 of the Act;

(m) “technology” means any information (including information embodied in a software), other than information in the public domain, that is capable of being used in—

(i) the development, production or use of any goods or software;

(ii) the development of, or the carrying out of, an industrial or commercial activity or the provision of service of any kind.

*Explanation,—*For the purpose of this clause—

(a) when technology is described wholly or partly by reference to the uses to which it (or the goods to which it relates) may be put, it shall include services which are provided or used, or which are capable of being used in the development, production or use of such technology or goods;

(b) “public domain” shall have the same meaning as assigned to it in clause (i) of section 4 of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.’

21 of 2005

Amendment of
title of
Chapter II.

3. In the principal Act, in sub-heading below “Chapter II”, for the words “EXPORT AND IMPORT POLICY”, the words “FOREIGN TRADE POLICY” shall be substituted.

Amendment of
section 3.

4. In section 3 of the principal Act,-

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

(i) for the words “import or export of goods”, the words “import or export of goods or services or technology” shall be substituted;

(ii) after sub-section (2), the following proviso shall be inserted, namely:-

“Provided that the provisions of this sub-section shall be applicable, in case of import or export of services or technology, only when the service or technology provider is availing benefits under the foreign trade policy or is dealing with specified services or specified technologies.” .

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

“(4) without prejudice to anything contained in any other law, rule, regulation, notification or order, no permit or licence shall be necessary for import or export of any goods, nor any goods shall be prohibited for import or export except, as may be required under this Act, or rules or orders made thereunder.”.

Substitution of
new section
for section 5.

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

Foreign Trade
Policy.

“5. The Central Government may, from time to time, formulate and announce, by notification in the Official Gazette, the foreign trade policy and may also, in like manner, amend that policy:

Provided that the Central Government may direct that, in respect of the Special Economic Zones, the foreign trade policy shall apply to the goods, services

and technology with such exceptions, modifications and adaptations, as may be specified by it by notification in the Official Gazette.”.

6. In section 6 of the principal Act, in sub-section (2), for the words “export and import policy”, the words “foreign trade policy” shall be substituted.

Amendment of section 6.

7. In section 7 of the principal Act, the following proviso shall be inserted, namely:--

Amendment of section 7.

“Provided that in case of import or export of services or technology, the Importer-exporter Code Number shall be necessary only when the service or technology provider is taking benefits under the foreign trade policy or is dealing with specified services or “specified technologies.”.

8. In section 8 of the principal Act,-

Amendment of section 8.

(A) for sub-section (I), the following sub-section shall be substituted, namely:

“(1) Where—

(a) any person has contravened any of the provisions of this Act or any rules or orders made thereunder or the foreign trade policy or any other law for the time being in force relating to Central excise or customs or foreign exchange or has committed any other economic offence under any other law for the time being in force as may be specified by the Central Government by notification in the Official Gazette; or

(b) the Director General or any other officer authorised by him has reason to believe that any person has made an export or import in a manner prejudicial to the trade relations of India with any foreign country or to the interests of other persons engaged in imports or exports or has brought disrepute to the credit or the goods of, or services or technology provided from, the country; or

(c) any person who imports or exports specified goods or services or technology, in contravention of any provision of this Act or any rules or orders made thereunder or the foreign trade policy,

the Director General or any other officer authorised by him may call for the record or any other information from that person and may, after giving to that person a notice in writing informing him of the grounds on which it is proposed to suspend or cancel the Importer-exporter Code Number and after giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice and, if that person so desires, of being heard, suspend for a period, ‘as may be specified in the order, or cancel the Importer-exporter Code Number granted to that person.”;

(B) in sub-section (2), for the words “import or export any goods”, the words “import or export any goods or services or technology”, shall be substituted.

9. In section 9 of the principal Act,—

Amendment of section 9.

(a) in sub-sections (1), (3), (4) and (5), for the word “licence”, wherever it occurs, the words “licence, certificate, scrip or any instrument bestowing financial or fiscal benefits” shall be substituted;

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

“(2) The Director General or an officer authorised by him may, on an application and after making such inquiry as he may think fit, grant or renew or refuse to grant or renew a licence to import or export such class or classes of goods or services or technology as may be prescribed and, grant or renew or refuse to grant or renew a certificate, scrip or any instrument bestowing financial or fiscal benefit, after recording in writing his reasons for such refusal.”.

10. After Chapter III of the principal Act, the following Chapter shall be inserted, namely:-

Insertion of new Chapter IIIA.

CHAPTER IIIA

QUANTITATIVE RESTRICTIONS

Power of Central Government to impose quantitative restrictions.

9A. (1) If the Central Government, after conducting such enquiry as it deems fit, is satisfied that any goods are imported into India in such increased quantities and under such conditions as to cause or threaten to cause serious injury to domestic industry, it may, by notification in the Official Gazette, impose such quantitative restrictions on the import of such goods as it may deem fit:

Provided that no such quantitative restrictions shall be imposed on any goods originating from a developing country so long as the share of imports of such goods from that country does not exceed three per cent. of where such goods originate from more than one developing country, then, so long as the aggregate of the imports from all such countries taken together does not exceed nine per cent. of the total imports of such goods into India.

(2) The quantitative restrictions imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of such imposition:

Provided that if the Central Government is of the opinion that the domestic industry has taken measures to adjust to such injury or threat thereof and it is necessary that the quantitative restrictions should continue to be imposed to prevent such injury or threat and to facilitate the adjustments, it may extend the said period beyond four years:

Provided further that in no case the quantitative restrictions shall continue to be imposed beyond a period of ten years from the date on which such restrictions were first imposed.

(3) The Central Government may, by rules provide for the manner in which goods, the import of which shall be subject to quantitative restrictions under this section, may be identified and the manner in which the causes of serious injury or causes of threat of serious injury in relation to such goods may be determined.

(4) For the purposes of this section—

(a) “developing country” means a country notified by the Central Government in the Official Gazette, in this regard;

(b) “domestic industry” means the producers of goods (including producers of agricultural goods)—

(i) as a whole of the like goods or directly competitive goods in India; or

(ii) whose collective output of the like goods or directly competitive goods in India constitutes a major share of the total production of the said goods in India;’

(c) “serious injury” means an injury causing significant overall impairment in the position of a domestic industry;

(d) “threat of serious injury” means a clear and imminent danger of serious injury.’

Amendment of section 10.

11. In section 10 of the principal Act, for sub-section (1), the following sub-section shall be Substituted, namely:—

“(1) The Central Government may, by notification in the Official Gazette, authorise any person for the purposes of exercising ‘such powers with respect to,-

(a) entering such premises where the goods are kept, stored or processed, manufactured, traded or supplied or received for the purposes of import or export and searching, inspecting and seizing of such goods, documents, things and conveyances connected with such import and export of goods;’;

(b) entering such premises from which the services or technology are being provided, supplied, received, consumed or utilised and searching, inspecting and seizing of such goods, documents, things and conveyances connected with such import and export of services and technology,

subject to such requirements and conditions and with the approval of such officer, as may be prescribed:

Provided that the provisions of clause (b) shall be applicable, in case of import or export of services or technology, only when the service or technology provider is availing benefit under the foreign trade policy or is dealing with specified services or specified technologies .”.

12. For section 11 of the principal Act, the following section shall be substituted, namely:-

Substitution
of new
section for
section 11.

“11. (1) No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.

Contravention
of provisions
of this Act,
rules, orders
and foreign
trade policy.

(2) Where any person makes or abets or attempts to make any export or import in contravention of any provision of this Act or any rules or orders made thereunder or the foreign trade policy, he shall be liable to a penalty of not less than ten thousand rupees and not more than five times the value of the goods or services or technology in respect of which any contravention is made or attempted to be made, whichever is more.

(3) Where any person signs or uses, or causes to be made, signed or used, any declaration, statement or document submitted to the Director General or any officer authorised by him under this Act, knowing or having reason to believe that such declaration, statement or document is forged or tampered with or false in any material particular, he shall be liable to a penalty of not less than ten thousand rupees or more than five times the value of the goods or services or technology in respect of which such declaration, statement or document had been submitted, whichever is more.

(4) Where any person, on a notice to him by the adjudicating Authority, admits any contravention, the Adjudicating Authority may, in such class or classes or cases and in such manner as may be prescribed, determine, by way of settlement, an amount to be paid by that person.

(5) A penalty imposed under this Act may, if it is not paid by any person, be recovered by anyone or more of the following modes, namely:-

(a) the Director General may deduct or require any officer subordinate to him to deduct the amount payable under this Act from any money owing to such person which may be under the control of such officer; or

(b) the Director General may require any officer of customs to deduct amount payable under this Act from any money owing to such person which may be under the control of such officer of customs, as if the said amount is payable under the Customs Act, 1962; or

52 of 1962.

(c) the Director General may require the Assistant Commissioner of Customs or Deputy Commissioner of Customs or any other officer of Customs to recover the amount so payable by detaining or selling any goods (including the goods connected with services or technology) belonging to such person which are under the control of the Assistant Commissioner of Customs or Deputy Commissioner of Customs or any other officer of Customs, as if the said amount is payable under the Customs Act, 1962; or

52 Of 1962

(d) if the amount cannot be recovered from such person in the manner provided in clauses (a), (b) and (c),—

(i) the Director General or any officer authorised by him may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the District in which such person owns any property or resides or carries on business and the said Collector on receipt of such certificate shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue; or

(ii) the Director General or any officer authorised by him (including an officer of Customs who shall then exercise his powers under the Customs Act, 1962) and in accordance with the rules made in this behalf, detain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid, as if the said amount is payable under the Customs Act, 1962; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and costs including cost of sale remaining unpaid and shall render the surplus, if any to such person.

52 of 1962.

(6) Where the terms of any bond or other instrument executed under this Act or any rules made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (5), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

(7) without prejudice to the provisions contained in this section, the Importer Exporter Code Number of any person who fails to pay any penalty imposed under this Act, may be suspended by the Adjudicating Authority till the penalty is paid or recovered, as the case may be.

(8) Where any contravention of any provision of this Act or any rules or orders made thereunder or the foreign trade policy has been, is being, or is attempted to be, made, the goods (including the goods connected with services or technology) together with any package, covering or receptacle and any conveyances shall, subject to such conditions and requirements as may be prescribed, be liable to confiscation by the Adjudicating Authority.

(9) The goods (including the goods connected with services or technology) or the conveyance confiscated under sub-section (8) may be released by the Adjudicating Authority, in such manner and subject to such conditions as may be prescribed, on payment by the person concerned of the redemption charges equivalent to the market value of the goods or conveyance, as the case may be.”.

Insertion of
new sections
11A and 11B.

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

Crediting sums
realised by
way of
penalties in
Consolidated
Fund of
India.

“11A. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.

Empowering
Settlement
Commission
for regularisa-
tion of export
obligation
default.

11B. Settlement of customs duty and interest thereon as ordered by the Settlement Commission as constituted under section 32 of the Central Excise Act, 1944, shall be deemed to be a settlement under this Act.”.

1 of 1944.

Amendment of
section 14.

14. In section 14 of the principal Act, for the word “goods” at both the places where it occurs, the words and brackets “goods (including the goods connected with services or technology)” shall be substituted.

15. After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:—

Insertion of a new Chapter IVA.

“CHAPTER IVA

CONTROLS ON EXPORT OF SPECIFIED GOODS, SERVICES AND TECHNOLOGY.

21 of 2005.	14A. (1) In regard to controls on export of specified goods, services and technology referred to in this Chapter, the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 shall apply to exports, transfers, re-transfers, brought in transit, trans-shipment of, and brokering in specified goods, technology or services.	Controls on export of specified goods, services and technology.
21 of 2005.	(2) All terms, expressions or provisions of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 shall apply to the specified goods, services or technology with such exceptions, modifications and adaptations as may be specified by the Central Government by notification in the Official Gazette.	
	(3) The Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Chapter-	
	(a) shall not apply to any goods, services, or technologies, or	
	(b) shall apply to any goods, services or technologies with such exceptions, modifications and adaptations as may be specified in the notification.	
21 of 2005.	14B. (1) The Central Government may, by notification in the Official Gazette, make rules ‘,’ in conformity with the provisions of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 for, or, in connection with, the imposition of controls in relation to transfer of specified goods, services or technology.	Transfer controls.
21 of 2005.	(2) No goods, services or technology notified under this Chapter shall be exported, transferred, re-transferred, brought in transit or transshipped except in accordance with the provisions of this Act, the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 or any other relevant Act.	
	14C. No person shall export any material, equipment or technology knowing that such material, equipment or technology is intended to be used in the design or manufacture of a biological weapon, chemical weapon, nuclear weapon or other nuclear explosive device, or in their missile delivery systems.	Catch-all controls.
	14D. The Director General or an officer authorised by him may, by order, suspend or cancel a licence to import or export of specified goods or services or technology without giving the holder of the licence a reasonable opportunity of being heard but such person shall be given a reasonable opportunity of being heard within six months of such order and thereupon the Director General or the officer so authorised may, if necessary, by order in writing, confirm, modify or revoke such order.	Suspension or cancellation of a licence.
21 of 2005.	14E. (1) In case of a contravention relating to specified goods, services or technologies, the penalty shall be in accordance with the provisions of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.	Offences and penalties.
21 of 2005.	(2) Where any person contravenes or attempts to contravene or abets, any of the provisions of this Chapter in relation to import or export of any specified goods or services or technology, he shall, without prejudice to any penalty which may be imposed on him, be punishable with imprisonment for a term stipulated in the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.	
	(3) No court shall take cognizance of any offence punishable under this Chapter without the previous sanction of the Central Government or any officer authorised in this behalf by the Central Government by general or special order.”.	

- Amendment of title of Chapter of Chapter V. **16.** In the principal Act, in sub-heading below “CHAPTER V”, for the word “REVISION”, the word “REVIEW” shall be substituted.
- Amendment of section 15. **17.** In section 15 of the principal Act, in sub-section (2), in the proviso, for the word “goods”, the words and brackets “the goods (including the goods connected with services or technology)” shall be substituted.
- Substitution of new section for section 16. **18.** For section 16 of the principal Act, the following section shall be substituted, namely:-
- Review. **“16.** The Central Government, in the case of any decision or order made by the Director General, or the Director General in the case of any decision or order made by any officer subordinate to him, may on its or his own motion or otherwise, call for and examine the records of any proceeding, for the purpose of satisfying itself or himself, as the case may be, as to the correctness, legality or propriety of such decision or order and make such orders thereon as may be deemed fit:
- Provided that no decision or order shall be varied under this section so as to prejudicially affect any person unless such person-
- (a) has, within a period of two years from the date of such decision or order, received a notice to showcause why such decision or order shall not be varied; and
- (b) has been given a reasonable opportunity of making representation and, if he so desires, of being heard in his defence.”.
- Amendment of section 17. **19.** In section 17 of the principal Act, for the word “Revision” wherever it occurs, the word “Review” shall be substituted.
- Insertion of new section 18A. **20.** After section 18 of the principal Act, the following section shall be inserted, namely:-
- Application of other laws not barred. **“18A.** The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.”.
- Amendment of section 19. **21.** In section 19 of the principal Act, in sub-section (2),—
- (a) in clause (b), for the word “licence”, the words “licence, certificate, scrip or any instrument bestowing financial or fiscal benefits” shall be substituted;
- (b) for clause (c), the following clause shall be substituted, namely:—
- “(c) the class or classes of goods (including the goods connected with service or technology) for which a licence, certificate, scrip or any instrument bestowing financial or fiscal benefits may be granted under sub-section (2) of section 9;”;
- (c) in clauses (d) and (e), for the word “licence”, the words “licence, certificate, scrip or any instrument bestowing financial or fiscal benefits” shall be substituted;
- (d) after clause (e), the following clause shall be inserted, namely:-
- “(ea) the matter in which goods, the import of which shall be subject to quantitative restrictions, may be identified and the manner in which the causes of serious injury or causes of threat of serious injury in relation to such goods may be determined under sub-section (3) of section 9A;”;
- (e) in clause (f), for the word “goods”, the words and brackets “goods (including the goods connected with the service or technology)” shall be substituted;
- (f) in clause (g), for the words, brackets and figures “sub-section (3) of section 11 “, the words, brackets and figures “sub-section (4) of the section 11” shall be substituted;

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

“(h) the requirements and conditions subject to which goods (including the goods connected with the service or technology) and conveyances shall be liable to confiscation under sub-section (8) of section 11 ;”;

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

“(i) the manner in which and the conditions subject to which goods (including the goods connected with the service or technology) and conveyances may be released on payment of redemption .charges under sub-section (9) of section 11.”.

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, 23rd August, 2010

The following Act of Parliament received the assent of the President on the 20th August, 2010 and is hereby published for general information:—

THE SECURITIES AND INSURANCE LAWS (AMENDMENT AND VALIDATION) ACT, 2010

ACT No. 26 OF 2010.

An Act further to amend the Reserve Bank of India Act, 1934, the Insurance Act, 1938, the Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Securities and Insurance Laws (Amendment and Validation) Act, 2010.

Short title and commencement.

(2) It shall be deemed to have come into force on the 18th day of June, 2010.

CHAPTER II.

AMENDMENT TO THE RESERVE BANK OF INDIA ACT, 1934.

2. After Chapter IIID of the Reserve Bank of India Act, 1934, the following Chapter shall be inserted, namely:-

Insertion of new Chapter IIIE in Act 2 of 1934.

“CHAPTER IIIE

JOINT MECHANISM

15 of 1992. 45Y. (1) Notwithstanding anything contained in this Act or the Securities and Exchange Board of India Act, 1992 or any other law for the time being in force, if any difference of opinion arises as to whether—

Joint Mechanism.

(i) any instrument, being derivative referred to in clause (a) or money market instrument referred to in clause (b) or repo referred to in clause (c) or reverse repo referred to in clause (d) or securities referred to in clause (e) of section 45U of this Act; or

4 of 1938 42 of 1956 (ii) any instrument, being policy of life insurance under the Insurance Act, 1938, or the rules or regulations made thereunder, or, scrips or any 4 other securities referred to in sub-clauses (i), (ia), (ib), (ic), (id), (ie), (ii) and (iii) of clause (h) of Section 2 of the Securities Contracts (Regulation) Act, 1956,

15 of 1992 41 of 1999. is hybrid or composite instrument, having a component of money market investment or securities market instrument or a component of insurance or any other instrument referred to in clause (i) or clause (ii) and falls within the jurisdiction of the Reserve Bank of India or the Securities and Exchange Board of India established under Section 3 of the Securities and Exchange Board of India Act, 1992 or the Insurance Regulatory and Development Authority established 15 under Section 3 of the Insurance Regulatory and Development Authority Act, 1999 or the Pension Fund Regulatory and Development Authority constituted by 41 the Resolution of the Government of India number F.No. 1(6)2007-PR, dated the 14th November, 2008, such difference of opinion shall be referred to a Joint Committee consisting of the following, namely:—

(a) the Union Finance Minister - *ex officio* Chairperson;

(b) the Governor, Reserve Bank of India - *ex officio* Vice-Chairperson;

(c) the Secretary, Department of Economic Affairs in the Ministry of Finance, Government of India - *ex officio* Member;

(d) the Secretary, Department of Financial Services in the Ministry of Finance, Government of India - *ex officio* Member;

(e) the Chairperson, Insurance Regulatory and Development Authority - *ex officio* Member;

(f) the Chairman, Securities and Exchange Board of India - *ex officio* Member;

(g) the Chairperson, Pension Fund Regulatory and Development Authority - *ex officio* Member.

(2) The Secretary, Department of Financial Services in the Ministry of Finance, Government of India shall be the convener of the meetings of the Joint Committee referred to in sub-section (1).

(3) In case of any difference of opinion referred to in sub-section (1), any Member of the Joint Committee referred to in clauses (b), (e), (f) or (g) of that sub-section may make a reference to the Joint Committee.

(4) The Joint Committee shall follow such procedure as it may consider expedient and give, within a period of three months from the date of reference made under sub-section. (3), its decisions thereon to the Central Government.

(5) The decision of the Joint Committee shall be binding on the Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority and the Pension Fund Regulatory and Development Authority.”.

CHAPTER III.

AMENDMENT TO THE INSURANCE ACT, 1938

Amendment of
Section 2 of
Act 4 of
1938.

3. In the Insurance Act, 1938, in Section 2, after clause (II), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 9th day of April, 2010, namely:—

‘Explanation.—For the removal of doubts, it is hereby declared that “life insurance business” shall include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment and a component of insurance issued by an insurer referred to in clause (9) of this Section.’.

CHAPTER IV.

AMENDMENT TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956.

Amendment of
Section 2 of
Act 42 of
1956.

4. In the Securities Contracts (Regulation) Act, 1956, in section 2, in clause (h), after sub-clause (id), the following *Explanation* shall be inserted and shall be deemed of to have been inserted with effect from the 9th day of April, 2010, namely:-

‘Explanation.—For the removal of doubts, it is hereby declared that “securities” shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938.’.

4 of 1938

CHAPTER V

AMENDMENT TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

Amendment of
section 12 of
Act 15 of
1992.

5. In the Securities and Exchange Board of India Act, 1992, in section 12, in sub-section (IB), the following *Explanation* shall be inserted and shall be deemed to have of been inserted with effect from the 9th day of April, 2010, namely:—

“Explanation.—For the removal of doubts, it is hereby declared that, for the purposes of this section, a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by an insurer.”.

CHAPTER VI

MISCELLANEOUS

- 4 of 1938.
42 of 1956
15 of 1992
6. Notwithstanding anything contained in any judgment, decree or order of any Val court, tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 or section 2 of the Securities Contracts (Regulation) Act, 1956 or section 12 of the Securities and Exchange Board of India Act, 1992, as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person. Validation
- Ord. 3 of 2010.
7. (1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 is hereby repealed. Repeal and savings.
- 2 of 1934.
4 of 1938.
42 of 1956.
15 of 1992.
- (2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 or the Insurance Act, 1938 or the Securities Contracts (Regulation) Act, 1956 or the Securities and Exchange Board of India Act, 1992, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

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, 25th August, 2010.

The following Act of Parliament received the assent of the President on the 24th August, 2010 and is hereby published for general information:—

THE STATE BANK OF INDIA (AMENDMENT) ACT, 2010.

ACT No. 27 OF 2010.

An Act further to amend the State Bank of India Act, 1955.

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

1. (1) This Act may be called the State Bank of India (Amendment) Act, 2010.

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:

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.

23 of 1955.

2. In section 2 of the State Bank of India Act, 1955 (hereinafter referred to as the principal Act), clause (i) shall be omitted.

Amendment of section 2.

3. For section 4 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 4.

“4. Subject to the provisions of this Act, the authorised capital of the State Bank shall be five thousand crores of rupees divided into five hundred crores of fully paid-up shares of ten rupees each:

Authorised capital.

Provided that the Central Board may reduce the nominal or face value of the shares, and divide the authorised capital into such denomination as it may decide with the approval of the Reserve Bank:

Provided further that the Central Government may, in consultation with the Reserve Bank, increase or reduce the authorised capital so however that the shares in all cases shall be fully paid-up shares.”

4. In section 5 of the principal Act,—

Amendment of section 5.

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

“(2) The issued capital of the State Bank shall consist of equity shares or equity and preference shares:

Provided that the issue of preference shares shall be in accordance with the guidelines framed by the Reserve Bank specifying the class of preference shares, the extent of issue of each class of such preference shares (whether perpetual or irredeemable or redeemable) and the terms and conditions subject to which, each class of preference shares may be issued:

Provided further that the Central Board may from time to time increase, with the previous approval of the Reserve Bank and the Central Government, whether by public issue or rights issue or preferential allotment or private placement, in accordance with the procedure as may be prescribed, the issued capital by the issue of equity or preference shares:

Provided also that the Central Government shall, at all times, hold not less than fifty-one per cent of the issued capital consisting of equity shares of the State Bank.”;

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

“(4) Subject to the provisions contained in sub-section (2), the Central Board may increase from time to time, by way of issuing bonus shares to existing

equity shareholders, the issued capital in such manner as the Central Government may, after consultation with the Reserve Bank, direct.

(5) The State Bank may, accept the money in respect of shares issued towards increase in the issued capital in instalments, make calls, forfeit unpaid shares and re-issue them, in such manner as may be prescribed.”.

Amendment of section 10.

5. In section 10 of the principal Act, in sub-section (2), for the words “fifty-five per cent. of the issued capital”, the words “fifty-one per cent of the issued capital consisting of equity shares,” shall be substituted.

Insertion of new section 10A.

6. After section 10 of the principal Act, the following section shall be inserted, namely:—

Right of registered shareholders to nominate.

“10A. (1) Every individual registered shareholder may, at any time, nominate, in the prescribed manner, an individual to whom all his rights in the shares shall vest in the event of his death.

(2) Where the shares are registered in the name of more than one individual jointly, the joint holders may together nominate in the prescribed manner, an individual to whom all their rights in the shares shall vest in the event of the death of all the joint holders.

(3) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, where a nomination in respect of shares is made in the prescribed manner and which purports to confer on the nominee the right to vest the shares, the nominee shall, on the death of the shareholder or, as the case may be, on the death of all the joint holders, become entitled to all the rights of the shareholder or, as the case may be, of all the joint holders, in relation to such shares and all other persons shall be excluded unless the nomination is varied or cancelled in the prescribed manner.

(4) Where the nominee is a minor, it shall be lawful for the individual registered holder of the shares to make nomination to appoint, in the prescribed manner, any person to become entitled to the shares in the event of his death during the minority of the nominee.”.

Amendment of section 11.

7. In section 11 of the principal Act, after the proviso, the following provisos shall be inserted, namely:—

“Provided further that the shareholder holding any preference share capital in the State Bank shall, in respect of such capital, have a right to vote only on resolutions placed before the State Bank which directly affect the rights attached to his preference shares:

Provided also that no preference shareholder, other than the Central Government, shall be entitled to exercise voting rights in respect of preference shares held by him in excess of ten per cent of total voting rights of all the shareholders holding preference share capital only.”.

Amendment of section 13.

8. In section 13 of the principal Act, in sub-section (2), for the words “in computer floppies or diskettes”, the words “in computer floppies or diskettes or any other electronic form” shall be substituted.

Amendment of section 16.

9. In section 16 of the principal Act,-

(a) in sub-section (1), for the word “Bombay”, the words “Mumbai, and shall also be known as Corporate Centre” shall be substituted;

(b) in sub-section (2), for the words “Bombay, Calcutta and Madras”, the words “Mumbai, Kolkata and Chennai” shall be substituted.

Amendment of section 19.

10. In section 19 of the principal Act,-

(a) in clause (a), the words “and a vice-chairman” shall be omitted;

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

“(b) such number of managing directors not exceeding four, as may be appointed by the Central Government in consultation with the Reserve Bank;”;

(c) clause (bb) shall be omitted;

(d) in clause (d), the words “in consultation with the Reserve Bank,” shall be omitted;

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

“(f) one director, possessing necessary expertise and experience in matters relating to regulation or supervision of commercial banks to be nominated by the Central Government on the recommendation of the Reserve Bank.”.

11. After section 19 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 19A and 19B.

“19 A. (1) The directors elected under clause (c) of section 19 shall-

(a) have special knowledge or experience in respect of one or more of the following areas, namely:-

(i) agriculture and rural economy,

(ii) banking,

(iii) co-operation,

(iv) economics,

(v) finance,

(vi) law,

(vii) small-scale industry,

(viii) any other area the special knowledge of, and experience in, which in the opinion of the Reserve Bank shall be useful to the State Bank;

(b) represent the interests of depositors; or

(c) represent the interests of farmers, workers and artisans.

Qualification for election of directors elected by shareholders.

(2) Without prejudice to the provisions of sub-section (1) and notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no person shall be eligible to be elected as director under clause (c) of section 19 unless he is a person having fit and proper status based upon track record, integrity and such other criteria as the Reserve Bank may notify from time to time in this regard and the Reserve Bank may specify in the notification issued under this sub-section, the authority to determine the fit and proper status, the manner of such determination, the procedure to be followed for such determinations and such other matters as may be considered necessary or incidental thereto.

(3) Where the Reserve Bank is of the opinion that any director of the State Bank elected under clause (c) of section 19 does not fulfil the requirements of sub-sections (1) and (2), it may, after giving to such director and the State Bank a reasonable opportunity of being heard, by order, remove such director.

(4) On the removal of a director under sub-section (3), the Central Board shall co-opt any other person fulfilling the requirements of sub-sections (1) and (2), as a director in place of the person so removed, till a director is duly elected by the shareholders of the State Bank in the next annual general meeting; and the person so co-opted shall be deemed to have been duly elected by the shareholders of the State Bank as a director.

19B. (1) If the Reserve Bank is of the opinion that in the interest of banking policy or in the public interest or in the interests of the State Bank or its depositors, it is necessary so to do, it may, from time to time and by order in writing appoint, with effect from such date as may be specified in the order, one or more persons as additional directors of the State Bank.

Power of Reserve Bank to appoint additional directors.

(2) Any person appointed as additional director under sub-section (1) shall,—

(a) hold office during the pleasure of the Reserve Bank and subject thereto for a period not exceeding three years or such further periods not exceeding three years at a time as the Reserve Bank may, by order, specify;

(b) not incur any obligation or liability by reason only of his being an additional director or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto; and

(c) not be required to hold qualification shares in the State Bank.

(3) For the purpose of reckoning any proportion of the total number of directors of the State Bank, any additional director appointed under this section shall not be taken into account.”.

Amendment of section 20.

12. In section 20 of the principal Act,-

(a) in sub-section (1), the words, “vice-chairman” shall be omitted;

(b) in sub-section (1A), the word, “vice-chairman”, occurring at both the places, shall be omitted;

(c) in sub-section (3A), the words “and thereafter until his successor shall have been duly appointed or nominated”, shall be omitted.

Amendment of section 21.

13. In section 21 of the principal Act,-

(a) in sub-section (1)—

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

“(a) the chairman, *ex-officio* or the managing director nominated by the chairman;”;

(ii) in clause (c), the words “in consultation with the Reserve Bank” shall be omitted;

(b) in sub-section (5), for the words “Governor of the Reserve Bank”, the words “Central Government” shall be substituted.

Substitution of new section for section 21B.

14. For section 21B of the principal Act, the following section shall be substituted, namely:—

Powers of Local Board.

“21B. In respect of the area falling within the jurisdiction of the local head office for which the Local Board has been constituted, a Local Board shall, subject to such general or special direction as the Central Board may give from time to time, exercise such powers and perform such duties and functions as may be entrusted or delegated to it by the Central Board.”.

Amendment of section 21C.

15. In section 21C of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:-

“(2) The chairman or the managing director nominated by him shall be an *ex-officio* member of every such Local Committee.”.

Amendment of section 22.

16. In section 22 of the principal Act, in sub-section (1),—

(a) in clause (d), the word “vice-chairman” shall be omitted;

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

“(h) in the case of an elected director, he is not registered as a holder in his own right of unencumbered shares in the State Bank, either as sole holder or as first named holder when jointly held, of a nominal value of at least five thousand rupees.”.

17. In section. 23 of the principal Act, in clause (b), the word, "vice-chairman" shall be omitted. Amendment of section 23.
18. In section 24 of the principal Act,- Amendment of section 24.
- (a) in sub-section (1), the word, "vice-chairman" shall be omitted;
- (b) in sub-section (3), the words, "after consulting the Reserve Bank," shall be omitted.
19. After section 24 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 24A.
- "24A. (1) Where the Central Government, on the recommendation of the Reserve Bank is satisfied that in the public interest or for preventing the affairs of the State Bank being conducted in a manner detrimental to the interest of the depositors or the State Bank or for securing the proper management of the State Bank, it is necessary so to do, the Central Government may, for reasons to be recorded in writing, by order, supersede the Central Board for a period not exceeding six months as may be specified in the order: Supersession of Central Board in certain cases.
- Provided that the period of supersession of the Central Board may be extended from time to time, so, however, that the total period shall not exceed twelve months.
- (2) On supersession of the Central Board under sub-section (1), the Central Government may, in consultation with the Reserve Bank, appoint an Administrator (not being an officer of the Central Government or a State Government) who has experience in law, finance, banking, economics or accountancy, for such period as it may determine.
- (3) The Central Government may issue such directions to the Administrator as it may consider necessary and the Administrator shall be bound to follow such directions.
- (4) Notwithstanding anything contained in this Act, upon making the order of supersession of the Central Board-
- (a) the chairman, managing director and other directors shall, as from the date of supersession, vacate their offices as such;
- (b) all the powers, functions and duties which may, by or under the provisions of this Act or any other law for the time being in force, be exercised and discharged by or on behalf of the Central Board, or by a resolution passed in the general meeting of the State Bank, shall, until the Central Board is reconstituted, be exercised and discharged by the Administrator appointed under sub-section (2):
- Provided that the powers exercised by the Administrator shall be valid notwithstanding that such power is also exercisable by a resolution passed in the general meeting of the State Bank.
- (5) The Central Government may, in consultation with the Reserve Bank, constitute a committee of three or more persons who have experience in law, finance, banking, economics or accountancy to assist the Administrator in the discharge of his duties.
- (6) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the rules made under this Act.
- (7) The salary and allowances of the Administrator and the members of the committee shall be such as may be specified by the rules made under this Act and be payable by the State Bank.
- (8) On and before the expiration of two months before the expiry of the period of supersession of the Central Board, the Administrator of the State Bank shall call the general meeting of the State Bank to elect new directors and re-constitute the said Board.

(9) Notwithstanding anything contained in any other law for the time being in force or in any contract, no person shall be entitled to claim any compensation for the loss or termination of his office on supersession of the Central Board.

(10) The Administrator appointed under sub-section (2) shall vacate office immediately after the re-constitution of the Central Board.”.

Amendment of section 25.

20. In section 25 of the principal Act,-

(a) in sub-section (1), the word, “vice-chairman” shall be omitted;

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

(i) the word, “vice-chairman” shall be omitted;

(ii) in clause (b), the words “in consultation with the Reserve Bank” shall be omitted.

Omission of section 28.

21. Section 28 of the principal Act shall be omitted.

Amendment of section 29.

22. In section 29 of the principal Act, in sub-section (1),—

(a) in clause (a), the word “and” shall be omitted;

(b) in clause (b),-

(i) the words “and the vice-chairman,” shall be omitted;

(ii) at the end, the word “and” shall be inserted;

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

“(c) when authorised by the chairman, shall preside at the meetings of the Central Board in his absence.”.

Amendment of section 31.

23. In section 31 of the principal Act,-

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:-

“(1) The Central Board shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed; and the meeting of the Central Board may be held by participation of the directors of the Central Board through videoconferencing or such other electronic means, as may be prescribed, which are capable of recording and recognising the participation of the directors and the proceedings of such meetings are capable of being recorded and stored:

Provided that the Central Government may in consultation with the Reserve Bank, by notification in the Official Gazette, specify the matters which shall not be discussed in a meeting of the Central Board held through videoconferencing or such other electronic means.

(2) All questions at the meeting shall be decided by a majority of the votes of the directors present in the meeting or through videoconferencing or such other electronic means and in the case of equality of votes the chairman or, in his absence, the managing director authorised by the chairman shall have a second or casting vote.”;

(b) in sub-section (4), for the word “vice-chairman”, the words “managing director authorised by the chairman” shall be substituted.

Amendment of section 31A.

24. In section 31A of the principal Act, in sub-section (5), for the words “the vice-chairman, if he is a member of the Local Board”, the words “the managing director authorised by the chairman” shall be substituted.

Insertion of new section 38A.

25. After section 38 of the principal Act, the following section shall be inserted, namely:-

38A. (1) Where, after the commencement of the State Bank of India (Amendment) Act, 2010, a dividend has been declared by the State Bank but which has not been paid to a shareholder or claimed by any shareholder entitled to it, within thirty days from the date of declaration, the State Bank shall, within seven days from the date of expiry of the said period of thirty days, transfer the total amount of dividend which remains unpaid, or unclaimed, to a special account to be named, the "unpaid dividend account" maintained by it.

Transfer of unpaid or unclaimed dividend.

Explanation.—In this sub-section, the expression "dividend which remains unpaid" means any dividend the warrant in respect thereof has not been encashed or which has otherwise not been paid or claimed.

(2) Where the whole or any part of any dividend, declared by the State Bank before the commencement of the State Bank of India (Amendment) Act, 2010, remains unpaid at such commencement, the State Bank shall, within a period of six months from such commencement, transfer such unpaid amount to the account referred to in sub-section (1).

(3) Any money transferred to the unpaid dividend account of the State Bank, in pursuance of this section which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the State Bank to the Investor Education and Protection Fund established under sub-section (1) of section 205C of the Companies Act, 1956 for being utilised for the purpose and in the manner specified in that section.'

1 of 1956.

26. In section 39 of the principal Act, for the word "December", the word "March" shall be substituted.

Amendment of section 39.

27. In section 40 of the principal Act,-

Amendment of section 40.

(a) in sub-section (1), for the word "December", the word "March" shall be substituted;

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

"(2) The balance sheet and the profit and loss account shall be signed by the chairman, managing directors and at least three other directors of the Central Board."

28. In section 41 of the principal Act,--

Amendment of section 41.

(a) in sub-section (1), for the words "the Reserve Bank in consultation with the Central Government", the words "the State Bank with the previous approval of the Reserve Bank" shall be substituted;

(b) in sub-section (5), for the words "the Reserve Bank", the words "the State Bank with the previous approval of the Reserve Bank" shall be substituted.

29. For section 42 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 42.

"42. (1) An annual general meeting shall be held in each financial year at the Corporate Centre or at such other place in Mumbai other than the Corporate Centre or at such other place in India and at such time, as shall from time to time be specified by the Central Board and a general meeting other than an annual general meeting may be convened by the State Bank at any other time and at such place in India as shall from time to time be specified by the Central Board:

Balance sheet, etc., of State Bank may be discussed at general meeting.

Provided that such annual general meeting shall be held before the expiry of six weeks from the date on which the balance sheet together with the profit and loss account and auditors' report, under sub-section (1) of section 40, is forwarded to the Central Government or to the Reserve Bank, whichever date is earlier.

(2) The shareholders present at an annual general meeting shall be entitled to discuss and adopt the balance sheet and the profit and loss account of the State Bank made up to the previous 31st day of March or the date specified under section 39, as the case may be, the report of the Central Board on the working and activities of the State Bank for the period covered by the accounts and the auditors' report on the balance sheet and accounts."

Amendment of section 43.

30. In section 43 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The officers, advisers and employees of the State Bank shall individually or jointly or with other officers, advisers and employees in a Local Committee exercise such powers and perform such duties as may by general or special order, be entrusted or delegated to them by the Central Board or its executive committee."

Amendment of section 49.

31. In section 49 of the principal Act, in sub-section (2), after clause (c), the following clauses shall be inserted, namely:—

"(d) the time and place of meeting of the Committee and the rules of procedure to be observed by it under sub-section (6) of section 24A;

(e) the salary and allowances of the Administrator and the members of the committee under sub-section (7) of section 24A."

Amendment of section 50.

32. In section 50 of the principal Act, in sub-section (2),—

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

"(aa) the procedure for increasing issued capital by the issue of equity or preference shares under sub-section (2) and the manner of accepting money for issued capital, forfeiture and re-issue of shares under sub-section (5) of section 5;

(ab) the manner of nominating an individual by one individual under sub-section (1), the manner of nominating an individual by the joint holders under sub-section (2), the manner of varying or cancellation of nomination under sub-section (3), and the manner of nominating a minor under sub-section (4) of section 10A;"

(ii) in clause (b), for the words "floppies or diskettes", the words "floppies or diskettes or any other electronic form" shall be substituted.

Amendment of enactment.

33. The enactment specified in the Schedule is hereby amended to the extent and in the manner as given below:—

THE SCHEDULE.

(See section 33.)

Short title

THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959.

(38 of 1959)

In section 26, in sub-section (2A), the words "and thereafter until his successor shall have been duly appointed" 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, 25th August, 2010.

The following Act of Parliament received the assent of the President on the 24th August, 2010 and is hereby published for general information:—

THE ENERGY CONSERVATION (AMENDMENT) ACT, 2010.

ACT No. 28 OF 2010.

An Act to amend the Energy Conservation Act, 2001.

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

- 52 of 2001.
1. This Act may be called the Energy Conservation (Amendment) Act, 2010. Short title.
 2. In section 2 of the Energy Conservation Act, 2001 (hereinafter referred to as the principal Act),—
 - (i) in clause (a), for the words “an auditor possessing qualifications specified under”, the words “an energy auditor accredited in accordance with the provisions of” shall be substituted;
 - (ii) in clause (b), for the words and figures “established under section 30”, the words and figures “referred to in section 30” shall be substituted;
 - (iii) for clause (c), the following clause shall be substituted, namely:—

‘(c) “building” means any structure or erection or part of structure or erection after the rules relating to energy conservation building codes have been notified under clause (p) of section 14 and clause (a) of section 15 and includes any existing structure or erection or part of structure or erection, which is having a connected load of 100 Kilowatt (kW) or contract demand of 120 Kilo- volt Ampere (kVA) and above and is used or intended to be used for commercial purposes;’;
 - (iv) after clause (m), the following clauses shall be inserted, namely:—

‘(ma) “energy savings certificate” means any energy savings certificate issued to the designated consumers under sub-section (1) of section 14A;

‘(maa) “equipment or appliance” means any equipment or appliance which consumes, generates, transmits or supplies energy and includes any device that consumes any form of energy and produces a desired work;’.
 3. In section 9 of the principal Act, in sub-section (3), for the words “three years”, the words “five years” shall be substituted. Amendment of section 9.
 4. In section 10 of the principal Act, in sub-section (1), for the words “The Central Government”, the words “The Bureau” shall be substituted. Amendment of section 10.
 5. In section 13 of the principal Act, in sub-section (2),—
 - (i) after clause (a), the following clause shall be inserted, namely:—

“(aa) recommend to the Central Government for issuing of the energy savings certificate under section 14A;”;
 - (ii) for clause (p), the following clause shall be substituted, namely:—

“(p) specify, by regulations, the qualifications, criteria and conditions subject to which a person may be accredited as an energy auditor and the procedure for such accreditation;”;
 - (iii) in clause (r), for the words “energy managers”, the words “energy auditors and energy managers” shall be substituted;
 - (iv) after clause (s), the following clause shall be inserted, namely:—

“(sa) conduct examination for capacity building and strengthening of services in the field of energy conservation including certification of energy managers and energy auditors.”.Amendment of section 13.

Amendment of section 14.

6. In section 14 of the principal Act,—

(i) in clause (c), for the proviso, the following provisos shall be substituted, namely:—

“Provided that no notification prohibiting manufacture or sale or purchase or import of equipment or appliance shall be issued within a period of six months from the date of notification issued under clause (a) of this section:

Provided further that the Central Government may, having regard to the market share and the technological development having impact on equipment or appliance, and for reasons to be recorded in writing, extend the said period of six months referred to in the first proviso by a further period not exceeding six months;”;

(ii) in clause (e), for the words “any user or class of users of energy as a designated consumer”, the words “any user or class of users of energy in the energy intensive industries and other establishments as specified in the Schedule as a designated consumer” shall be substituted;

(iii) in clause (m), for the words “energy managers”, the words “energy auditors and energy managers” shall be substituted;

(iv) in clause (o), for the words “such form and manner”, the words “such form, the time within which and the manner” shall be substituted.

Insertion of new sections 14A and 14B.

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

Power of Central Government to issue energy savings certificate.

“14A. (1) The Central Government may issue the energy savings certificate to the designated consumer whose energy consumption is less than the prescribed norms and standards in accordance with the procedure as may be prescribed.

(2) The designated consumer whose energy consumption is more than the prescribed norms and standards shall be entitled to purchase the energy savings certificate to comply with the prescribed norms and standards.

Power of Central Government to specify value of energy.

14B. The Central Government may, in consultation with the Bureau, prescribe the value of per metric ton of oil equivalent of energy consumed for the purposes of this Act.”.

Amendment of section 26.

8. In section 26 of the principal Act,—

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

(i) the words, brackets and letter “or clause (n)” shall be omitted;

(ii) for the words “ten thousand rupees”, the words “ten lakh rupees” shall be substituted;

(iii) for the words “one thousand rupees”, the words “ten thousand rupees” shall be substituted;

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

“(1A) If any person fails to comply with the provisions of clause (n) of section 14, he shall be liable to a penalty which shall not exceed ten lakh rupees and, in the case of continuing failure, with an additional penalty which shall not be less than the price of every metric ton of oil equivalent of energy, prescribed under this Act, that is in excess of the prescribed norms.”.

	<p>9. For section 30 of the principal Act, the following section shall be substituted, namely:—</p>	Substitution of new section for section 30.
36 of 2003.	<p>“30. The Appellate Tribunal established under section 110 of the Electricity Act, 2003 shall, without prejudice to the provisions of the Electricity Act, 2003, be the Appellate Tribunal for the purposes of this Act and hear appeals against the orders of the adjudicating officer or the Central Government or the State Government or any other authority under this Act.”.</p>	Appellate Tribunal.
	<p>10. After section 31 of the principal Act, the following section shall be inserted, namely:-</p>	Insertion of new section 31A.
36 of 2003.	<p>“31 A. The provisions of sections 120 to 123 (both inclusive) of the Electricity Act, 2003 shall, mutatis mutandis; apply’ to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its function under the Electricity Act. 2003.”.</p>	Procedure and powers of Appellate Tribunal.
	<p>11. Section 32 to 43 of the principal Act shall be omitted.</p>	Omission of section 32 to 43.
	<p>12. In section 54 of the principal Act, the words “Chairperson of the Appellate Tribunal or the Members of the Appellate Tribunal or officers or employees of the Appellate Tribunal or the Members of the State Commission or the” shall be omitted.</p>	Amendment of section 54.
	<p>13. In section 56 of the principal Act, in sub-section (2),—</p> <p>(i) in clause (j), for the words “energy managers”, the words “energy auditors and energy managers” shall be substituted;</p> <p>(ii) after sub-clause (l), the following clauses shall be inserted, namely:—</p> <p>“(la) prescribing the procedure for issuing the energy savings certificate under sub-section (1) of section 14A;</p> <p>(laa) the value of per metric ton of oil equivalent of energy consumed under section 14B;”;</p> <p>(iii) clauses (s), (t) and (u) shall be omitted.</p>	Amendment of section 56.
	<p>14. in section 58 of the principal Act, in sub-section (2),—</p> <p>(a) for clause (j), the following clause shall be substituted, namely:-</p> <p>“(f) the qualifications, criteria and conditions subject to which a person may be accredited as an energy auditor and the procedure for such accreditation under clause (P) of sub-section (2) of section 13;”;</p> <p>(b) in clause (h), for the words “energy managers”, the words “energy auditors and energy managers” shall be substituted.</p>	Amendment of section 58.
	<p>15. In the Schedule to the principal Act, in the heading, the words “specified as designated consumers” shall be omitted.</p>	Amendment of the Schedule.
	<p>16. The enactment specified in the Schedule to this Act shall be amended in the manner specified therein.</p>	Amendment of certain enactment.

THE SCHEDULE.

(See section 16.)

AMENDMENT TO THE ELECTRICITY ACT, 2003

(36 OF 2003)

Amendment of
section 110.

In section 110, for the words “under this Act”, the words “under this Act or any other law for the time being in force” 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, 31st August, 2010.

The following Act of Parliament received the assent of the President on the 31st August, 2010 and is hereby published for general information:—

THE APPROPRIATION (RAILWAYS) No. 4 ACT, 2010.

ACT No. 29 OF 2010.

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 2010-11 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) No. 4 Act, 2010. 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 four hundred ninety-eight crores, one lakh and fifty thousand Rupees towards defraying the several charges which will come in course of payment during the financial year 2010-11, in respect of the services relating to Railways specified in column 2 of the Schedule. Issue of Rs.
498,01,50,000
out of the
Consolidated.
Fund of
India for the
financial
year
2010-11.
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)

1	2	3		
		Sums not exceeding		
		Voted by Parliament	<i>Charged on the Consolidated Fund</i>	Total
No. of Vote.	Services and purposes	Rs.	Rs.	Rs.
2	Miscellaneous Expenditure (General).....	100,00,00,000	..	100,00,00,000
16	Assets-Acquisition, Construction and Replacement— <i>Other Expenditure</i>			
	Capital	398,00,40,000	..	398,00,40,000
	Railway Funds	1,00,000	..	1,00,000
	Railway Safety Fund	10,000	..	10,000
	Total	498,01,50,000	..	498,01,50,000

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, 1st September, 2010.

The following Act of Parliament received the assent of the President on the 31st August, 2010 and is hereby published for general information:—

THE PERSONAL LAWS (AMENDMENT) ACT, 2010.

ACT No. 30 OF 2010.

An Act further to amend the Guardians and Wards Act, 1890 and the Hindu Adoptions and Maintenance Act, 1956.

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

CHAPTER I

PRELIMINARY

1. This Act may be called the Personal Laws (Amendment) Act, 2010.

Short title

CHAPTER II

AMENDMENT TO THE GUARDIANS AND WARDS ACT, 1890.

2. In section 19 of the Guardians and Wards Act, 1890, for clause (b), the following clause shall be substituted, namely:—

Amendment of section 19 of Act 8 of 1890.

“(b) of a minor, other than a married female, whose father or mother is living and is not, in the opinion of the court, unfit to be guardian of the person of the minor, or”.

CHAPTER III

AMENDMENT TO THE HINDU ADOPTIONS AND MAINTENANCE ACT, 1956

78 of 1956.

3. In the Hindu Adoptions and Maintenance Act, 1956 (hereafter in this Chapter referred to as the Hindu Adoptions and Maintenance Act), for section 8, the following section shall be substituted, namely:—

Substitution of new section for section 8.

“8. Any female Hindu who is of sound mind and is not a minor has the capacity to take a son or daughter in adoption:

Capacity of a female Hindu to take in adoption.

Provided that, if she has a husband living, she shall not adopt a son or daughter except with the consent of her husband unless the husband has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.”.

4. In the Hindu Adoptions and Maintenance Act, in section 9,—

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

Amendment of section 9.

“(2) Subject to the provisions of sub-section (4), the father or the mother, if alive, shall have equal right to give a son or daughter in adoption:

Provided that such right shall not be exercised by either of them save with the consent of the other unless one of them has completely and finally renounced the world or has ceased to be Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.”;

(ii) sub section (3) 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.*