

THE BANKING REGULATION ACT, 1949

[Act 10 of 1949, dt. 10-3-1949]

As amended by

The Banking Laws (Amendment) Act, 2025 (16 of 2025), dt. 15-4-2025

An Act to consolidate and amend the law relating to banking ¹[xxx].

Whereas it is expedient to consolidate and amend the law relating to banking ¹[xxx];

It is hereby enacted as follows:—

PART I

PRELIMINARY

1. Short title, extent and commencement

(1) This Act may be called the Banking ²[Regulation] Act, 1949.

³(2) It extends to the whole of India⁴[xxx]].

(3) It shall come into force on such date⁵ as the Central Government may, by notification in the Official Gazette, appoint in this behalf.

2. Application of other laws not barred

The provisions of this Act shall be in addition to, and not, save as hereinafter expressly provided, in derogation of the ⁶[Companies Act, 1956 (1 of 1956)], and any other law for the time being in force.

COMMENTS

The Banking Regulation Act is to be read as supplemental to the Companies Act. According to section 2, and section 45A of the Banking Regulation Act which provides for overriding effect of Part IIIA (Special provisions for speedy disposal of winding up proceedings), the provisions of the other laws shall apply to all proceedings under that Part unless they are inconsistent with the Banking Companies Act. The Banking Regulation Act does not preclude the courts from scrutinising the rate of interest under the Usurious Loans Act, since section 2 makes it clear that the provisions of any other enactment and their application are not in any way excluded by the provisions of the Banking Regulation Act.—*AIR 1987 (Mad) 248*

⁷[3. Act not to apply to certain co-operative societies

Notwithstanding anything contained in the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981), this Act shall not apply to—

- (a) a primary agricultural credit society; or
- (b) a co-operative society whose primary object and principal business is providing of long-term finance for agricultural development,

1 Word “companies” omitted by Act 23 of 1965, w.e.f. 1-3-1966.

2 Substituted for “Companies” by Act 23 of 1965, w.e.f. 1-3-1966.

3 Substituted by Act 20 of 1950, w.e.f. 18-3-1950.

4 Words “except the State of Jammu and Kashmir” omitted by Act 62 of 1956, w.e.f. 1-11-1956.

5 Enforced w.e.f. 16-3-1949 vide Notification No. F. 4 (46)-FI/49, dt. 10-3-1949.

6 Substituted for “Indian Companies Act, 1913” by Act 95 of 1956, w.e.f. 14-1-1957.

7 Substituted by the Banking Regulation (Amdt.) Act, 2020 (39 of 2020), dt. 29-9-2020, w.e.f. 26-6-2020. Prior to substitution, section 3 read as under:

“3. Act to apply to co-operative societies in certain cases

Nothing in this Act shall apply to—

- (a) a primary agricultural credit society;
- (b) a co-operative land mortgage bank; and
- (c) any other co-operative society, except in the manner and to the extent specified in Part V.”

if such society does not use as part of its name, or in connection with its business, the words “bank”, “banker” or “banking” and does not act as drawee of cheques.]

COMMENTS

The Banking Regulation Act has a very limited application to co-operative societies. It provides for all aspects of banking business and transactions. Sec. 3 specifically provides that except in the manner and to the extent specified in Part V of the Act no other provision of the Act is applicable to co-operative societies.—*AIR 1977 (Ker) 36*

Sec. 3(b) exempted from its operation Land Mortgage Banks and not Primary Land Development Bank or Agricultural and Rural Development Bank. But that does not make any difference to decide on the true nature of Agricultural and Rural Development Banks or the legislative competence of the State Legislature. Even otherwise, on the rules of construction incorporated in s. 8 of the General Clauses Act, courts must read the term ‘mortgage banks’ referred to in s. 3(b) of the 1949 Act as Agricultural and Rural Development Bank.—(1986) 2 *SLJ 301 (Kar)*

4. Power to suspend operation of Act

(1) The Central Government, if on a representation made by the Reserve Bank in this behalf it is satisfied that it is expedient so to do, may by notification in the Official Gazette, suspend for such period, not exceeding sixty days, as may be specified in the notification, the operation of all or any of the provisions of this Act, either generally or in relation to any specified banking company.

(2) In a case of special emergency, the Governor of the Reserve Bank, or in his absence a Deputy Governor of the Reserve Bank nominated by him in this behalf may, by order in writing, exercise the powers of the Central Government under sub-section (1), so, however, that the period of suspension shall not exceed thirty days, and where the Governor or the Deputy Governor, as the case may be, does so, he shall report the matter to the Central Government forthwith, and the order shall, as soon as may be, be published in the Gazette of India.

(3) The Central Government may, by notification in the Official Gazette, extend from time to time the period of any suspension order under sub-section (1) or sub-section (2) for such period, not exceeding sixty days at any one time, as it thinks fit, so, however, that the total period does not exceed one year.

(4) A copy of any notification issued under sub-section (3) shall be laid on the table of ¹[Parliament] as soon as may be after it is issued.

COMMENTS

The object underlying this section is that in cases of genuine emergency, e.g. a general run on all banks or a run on some banks in particular area. Government should have power to suspend the operation of the Act after considering the recommendation of the Reserve Bank. The suspension of cl. 23 (now s. 24), will, for instance, enable the Reserve Bank to give an advance to tide over a banking crisis against liquid assets maintained by banks under that clause.

5. Interpretation

²[In this Act], unless there is anything repugnant in the subject or context,—

³(a) “approved securities” means the securities issued by the Central Government or any State Government or such other securities as may be specified by the Reserve Bank from time to time;]

¹ Substituted for “the Dominion Legislature” by the AO 1950.

² Substituted for “(1) In this Act” by Act 55 of 1963, w.e.f. 1-2-1964.

³ Substituted by Act 4 of 2013, dt. 5-1-2013, w.e.f. 18-1-2013. Prior to substitution, clause (a) read as under:
 “(a) “appropriate securities” means—
 (i) securities in which a trustee may invest money under clause (a), clause (b), clause (bb), clause (c) or clause (d) of section 20 of the Indian Trusts Act, 1882 (2 of 1882);
 (ii) such of the securities authorised by the Central Government under clause (f) of section 20 of the Indian Trusts Act, 1882 (2 of 1882) (2 of 1882), as may be prescribed;”

- (b) "banking" means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise;
- (c) "banking company" means any company which transacts the business of banking¹ [in India];

Explanation : Any company which is engaged in the manufacture of goods or carries on any trade and which accepts deposits of money from the public merely for the purpose of financing its business as such manufacturer or trader shall not be deemed to transact the business of banking within the meaning of this clause;

- ²[(ca) "banking policy" means any policy which is specified from time to time by the Reserve Bank in the interest of the banking system or in the interest of monetary stability or sound economic growth, having due regard to the interests of the depositors, the volume of deposits and other resources of the bank and the need for equitable allocation and the efficient use of these deposits and resources;]
- ³[(cc) "branch" or "branch office", in relation to a banking company, means any branch or branch office, whether called a pay office or sub-pay office or by any other name, at which deposits are received, cheques cashed, or moneys lent, and for the purposes of section 35 includes any place of business where any other form of business referred to in sub-section (1) of section 6 is transacted;]
- ⁴[(d) "company" means any company as defined in section 3 of the Companies Act, 1956 (1 of 1956); and includes a foreign company within the meaning of section 591 of that Act;]
- ⁵[(da) "corresponding new bank" means a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980);]
- ⁶[x x x]
- (f) "demand liabilities" means liabilities which must be met on demand, and "time liabilities" means liabilities which are not demand liabilities;
- ⁷[(ff) "Deposit Insurance Corporation" means the Deposit Insurance Corporation established under section 3 of the Deposit Insurance Corporation Act, 1961 (47 of 1961);]

1 Substituted for "in any State" by Act 20 of 1950, w.e.f. 18-3-1950.

2 Inserted by Act 58 of 1968, w.e.f. 1-2-1969.

3 Inserted by Act 33 of 1959, w.e.f. 1-10-1959.

4 Substituted by Act 33 of 1959, w.e.f. 1-10-1959.

5 Inserted by Act 1 of 1984, w.e.f. 15-2-1984.

6 Clause (e) omitted by Act 52 of 1953, w.e.f. 30-12-1953.

7 Inserted by Act 47 of 1961, w.e.f. 1-1-1962.

- ¹[xxx]
- (ffb) “Exim Bank” means Export-Import Bank of India established under section 3 of the Export-Import Bank of India Act, 1981 (28 of 1981);]
- ²[(ffc) “Reconstruction Bank” means the Industrial Reconstruction Bank of India established under section 3 of the Industrial Reconstruction Bank of India Act, 1984 (62 of 1984);]
- ³[(ffd) “National Housing Bank” means the National Housing Bank established under section 3 of the National Housing Bank Act, 1987;]
- (g) “gold” includes gold in the form of coin, whether legal tender or not, or in the form of bullion or ingot, whether refined or not;
- ⁴[(gg) “managing agent” includes,—
- (i) secretaries and treasurers,
- (ii) where the managing agent is a company, any director of such company, and any member thereof who holds substantial interest in such company,
- (iii) where the managing agent is a firm, any partner of such firm;]
- ⁵[(h) “managing director”, in relation to a banking company, means a Director who, by virtue of an agreement with the banking company or of a resolution passed by the banking company in general meeting or by its Board of Directors or, by virtue of its memorandum or articles of association, is entrusted with the management of the whole, or substantially the whole of the affairs of the company, and includes a Director occupying the position of a Managing Director, by whatever name called:]
- ⁵[PROVIDED that the Managing Director shall exercise his powers subject to the superintendence, control and direction of the Board of Directors;]
- ⁶[(ha) “National Bank” means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981);]
- ⁷[(hb) “National Bank for Financing Infrastructure and Development” means the Institution established under section 3 of the National Bank for Financing Infrastructure and Development Act, 2021;
- (bc) “other development financial institution” means a development financial institution licensed under section 29 of the National Bank for Financing Infrastructure and Development Act, 2021;]
- ⁸[x x x];
- (j) “prescribed” means prescribed by rules made under this Act;
- ⁶[(ja) “regional rural bank” means a regional rural bank established under section 3 of the Regional Rural Banks Act, 1976 (21 of 1976);]
- ⁹[x x x]

1 Clause (ffa) omitted by Act 53 of 2003, w.e.f. 2-7-2004.

2 Inserted by Act 62 of 1984, w.e.f. 20-3-1985.

3 Inserted by Act 53 of 1987, w.e.f. 7-9-1988.

4 Inserted by Act 58 of 1968, w.e.f. 1-2-1969.

5 Substituted by Act 33 of 1959, w.e.f. 1-10-1959.

6 Inserted by Act 61 of 1981, w.e.f. 1-5-1982.

7 Inserted by the National Bank for Financing Infrastructure and Development Act, 2021 (17 of 2021), dt. 28-3-2021, w.e.f. 19-4-2021 vide SO 1657(E), 16-4-2021.

8 Clause (i) omitted by Act 33 of 1959, w.e.f. 1-10-1959.

9 Clause (k) omitted by Act 33 of 1959, w.e.f. 1-10-1959.

- ¹[(l) “Reserve Bank” means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);]
- ²[x x x]
- (n) “secured loan or advance” means a loan or advance made on the security of assets the market value of which is not at any time less than the amount of such loan or advance; and “unsecured loan or advance” means a loan or advance not so secured;
- ³[(ni) “Small Industries Bank” means the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989;]
- ⁴[(na) “small-scale industrial concern” means an industrial concern in which the investment in plant and machinery is not in excess of seven and a half lakhs of rupees or such higher amount, not exceeding twenty lakhs of rupees, as the Central Government may, by notification in the Official Gazette, specify in this behalf, having regard to the trends in industrial development and other relevant factors;
- ⁵[(nb) “Sponsor Bank” has the meaning assigned to it in the Regional Rural Banks Act, 1976 (21 of 1976);
- (nc) “State Bank of India” means the State Bank of India constituted under section 3 of the State Bank of India Act, 1955 (23 of 1955);]
- ⁶[(nd)] “subsidiary bank” has the meaning assigned to it in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);
- ⁷[(ne)] “substantial interest,—
- (i) in relation to a company, means the holding of a beneficial interest by an individual or his spouse or minor child, whether singly or taken together in the shares thereof, the amount paid-up on which exceeds ⁸[two crore rupees or such other amount as may be notified in the Official Gazette by the Central Government] or ten per cent of the paid-up capital of the company, whichever is less;
- (ii) in relation to a firm, means the beneficial interest held therein by an individual or his spouse or minor child, whether singly or taken together, which represents more than ten per cent of the total capital subscribed by all the partners of the said firm;]
- ⁹[(o) all other words and expressions used herein but not defined and defined in the Companies Act, 1956 (1 of 1956), shall have the meanings respectively assigned to them in that Act.]
- ¹⁰[x x x]

1 Substituted by Act 1 of 1984, w.e.f. 15-2-1984.

2 Clause (m) omitted by Act 33 of 1959, w.e.f. 1-10-1959.

3 Inserted by Act 39 of 1989, w.e.f. 7-3-1990.

4 Inserted by Act 58 of 1968, w.e.f. 1-2-1969.

5 Inserted by Act 1 of 1984, w.e.f. 15-2-1984.

6 Clause (nb) re-lettered as clause (nd) by Act 1 of 1984, w.e.f. 15-2-1984.

7 Clause (nc) re-lettered as clause (ne) by Act 1 of 1984, w.e.f. 15-2-1984.

8 Substituted for “five lakhs of rupees” by the Banking Laws (Amendment) Act, 2025 (No. 16 of 2025), dt. 15-4-2025, w.e.f. 1-8-2025 vide SO 3494(E), dt. 29-7-2025.

9 Inserted by Act 33 of 1959, w.e.f. 1-10-1959.

10 Sub-section (2) omitted by the AO 1950.

COMMENTS**Sec. 5(1)(a) : Approved securities**

The securities issued by the Central Government or any State Government or such other securities as may be specified by the Reserve Bank from time to time.

Clauses (a), (b), (bb), (c) and (d) of s. 20 of the Indian Trusts Act, 1882 state :

Where the trust-property consists of money and cannot be applied immediately or at an early date for the purposes of the trust, the trustee is bound (subject to any direction contained in the instrument of trust) to invest the money on the following securities, and on no others : (a) in promissory notes, debentures, stock or other securities of any State Government or of the Central Government, or of the United Kingdom of Great Britain and Ireland: Provided that securities, both the principal whereof and the interest whereon shall have been fully and unconditionally guaranteed by any such government, shall be deemed, for the purposes of this clause, to be securities of such government; (b) in bonds, debentures and annuities charged or secured by the Parliament of the United Kingdom before the fifteenth day of August, 1947 on the revenues of India or of the Governor General in Council or of any province: Provided that, after the fifteenth day of February, 1916, no money shall be invested in any such annuity being a terminable annuity unless a sinking fund has been established in connection with such annuity; but nothing in this proviso shall apply to investments made before the date aforesaid; (bb) in India three and a half per cent stock, India three per cent stock, India two and a half per cent stock or any other capital stock which before the 15th day of August, 1947, was issued by the Secretary of State for India in Council under the authority of an Act of Parliament of the United Kingdom and charged on the revenues of India or which was issued by the Secretary of State on behalf of the Governor-General in Council under the provisions of Part XIII of the Government of India Act, 1935; (c) in stock or debentures of, or shares in, Railway or other companies the interest whereon shall have been guaranteed by the Secretary of State for India in Council or by the Central Government or in debentures of the Bombay Provincial Co-operative Bank Limited, the interest whereon shall have been guaranteed, by the Secretary of State for India in Council or the State Government of Bombay; (d) in debentures or other securities for money issued, under the authority of any Central Act or Provincial Act or State Act, by or on behalf of any municipal body, port trust or city improvement trust in any Presidency-town, or in Rangoon town, or by or on behalf of the trustees of the port of Karachi : Provided that after the 31st day of March, 1948, no money shall be invested in any securities issued by or on behalf of a municipal body, port trust or city improvement trust in Rangoon town, or by or on behalf of the trustees of the port of Karachi.

Under cl. (f) s. 20 of the Trusts Act, a trustee may invest on any other security expressly authorised by the instrument of trust, or by the Central Government by the notification in the Official Gazette or by any rule which the High Court may from time to time prescribe in this behalf : Provided that, where there is a person competent to contract and entitled in possession to receive the income of the trust-property for his life, or for any greater estate, no investment on any security mentioned or referred to in clauses (d), (e) and (f) shall be made without his consent in writing.

Sec. 5(1)(b) : Banking

The definition of banking in s. 277F of the Indian Companies Act, 1913 gave rise to administrative difficulties, particularly in respect of the "principal business" in determining whether a company comes within its scope. The new definition is intended to connect banking definitely with the acceptance of deposits from the public for the purpose of lending or investment and to bring within its ambit all the banks which accept demand or time deposits.

Power to receive money or deposit from customers and honouring their cheques is the essential characteristic of banking and in the absence of such power more power to grant loan does not make a company a banking company. The granting of loan is subject to the rules and practice and the bank has discretion in this matter in the interest of bank's safety and liquidity. The

definition of banking does not include other commercial activities which a banking institution may engage in. The field of banking cannot be extended to trading activities which not being incidental to banking encroach upon the substance of Entry 26 (Trade and Commerce) in List II of Sch. VII to the Constitution of India. The essence of a banking business is receiving money on current account for deposit from the public repayable on demand and withdrawable by cheque, draft or otherwise. The Act will, therefore, apply only to the limited class of cases where the bank or banker allows the withdrawal of money by the issue of cheques.—*AIR 1961 (Cal) 666 : AIR 1989 (Gau) 60 : AIR 1970 (SC) 564 : AIR 1961 (Mad) 8*

Sec. 5(1)(c) : Banking company

Sec. 5(1)(c) only means that transacting the business of banking should be the business of a company, and not that such business should have been transacted at any particular point of time. Notwithstanding that a banking company may not be transacting the business of banking at any particular point of time on account of a supervening cause, it will not cease to be banking company within the meaning of s. 5(1)(c). A banking company in liquidation is included in the definition. The definition of a banking company in the section means that banking should be the primary business of the company even if, by reason of certain supervening causes it is not able for the time being to carry on the work of receiving deposits and of making payments. A banking company continues to exist even after proceedings are started for its liquidation until it is dissolved by the order of the court and so long as it exists it retains its original character. When a bank was directed to be wound up and its charge was taken over by the official liquidator the bank would not cease to be a banking company.—*AIR 1952 TC 170, 1961 KLT 889 : AIR 1961 (Cal) 188*

The mere acceptance of deposits by companies like textile mills, etc., for the purpose of financing their own business should not be regarded as “banking” within the meaning of this Act, and although we are given to understand that this would be so even under the existing definition of “banking” we have thought it advisable to make the legal position clear by adding an Explanation to this effect in the definition of “banking company”.

Sec. 5(1)(d) : Company

Under s. 3 of the Companies Act, 1956, “company” means a company formed and registered under the Companies Act or an “existing company” as defined under s. 3(1)(ii) of that Act. “Foreign companies” within the meaning of s. 591 of the Companies Act mean companies falling under the following two classes, namely : (a) companies incorporated outside India which, after the commencement of this Act, establish a place of business within India; and (b) companies incorporated outside India which have, before the commencement of this Act, established a place of business within India and continue to have an established place of business within India at the commencement of this Act. Notwithstanding anything contained in sub-s. (1), where not less than fifty per cent of the paid-up share capital (whether equity or preference or partly equity and partly preference) of a company incorporated outside India and having an established place of business in India, is held by one or more citizens of India or by one or more bodies corporate incorporated in India, or by one or more citizens of India and one or more bodies corporate incorporated in India, whether singly or in the aggregate, such company shall comply with such of the provisions of this Act as may be prescribed with regard to the business carried on by it in India, as if it were a company incorporated in India.

Sec. 5(1)(da) : Corresponding new bank

Sec. 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Acts, 1970 and 1980 provides for the establishment of corresponding new banks and business thereof on transfer of the undertakings of the existing banks.

Sec. 5(1)(ff) : Deposit Insurance Corporation

Under s. 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 providing for the establishment and management of Deposit Insurance Corporation, the Central Government

shall, by notification in the Official Gazette, establish a corporation by the name of the Deposit Insurance Corporation which shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold or dispose of property and to contract, and may by the said name, sue or be sued. Any reference in this Act to the Deposit Insurance Corporation shall, on and from the date on which Chapter II of the Deposit Insurance Corporation (Amendment and Miscellaneous Provisions) Act, 1978, comes into force, be construed as a reference to the Deposit Insurance and Credit Guarantee Corporation. The Head Office of the Corporation shall be at Bombay, but it may, with the previous sanction of the Reserve Bank, establish branches or agencies in any other place in India.

Sec. 5(1)(ffa) : Development Bank

Sec. 3 of the Industrial Development Bank of India Act, 1964 providing for the establishment and incorporation of Industrial Development Bank of India states that with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established for the purposes of this Act a corporation to be known as the Industrial Development Bank of India. The Development Bank shall be a body corporate with the name aforesaid having 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 may, by that name, sue or be sued. The head office of the Development Bank shall be at Bombay or at such other place as the Central Government may, by notification in the Official Gazette, specify. The Development Bank may establish offices, branches or agencies at any place in or outside India.

Sec. 5(1)(ffb) : Exim Bank

Sec. 3 of the Export-Import Bank of India Act, 1981 lays down that with effect from such date as the Central Government may, by notification, appoint, there shall be established for the purposes of this Act a corporation to be known as the Export-Import Bank of India. The Exim Bank shall be a body corporate with the name aforesaid having 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 may, by that name, sue or be sued. The head office of the Exim bank shall be at Bombay or at such other place as the Central Government may, by notification, specify. The Exim Bank may establish offices, branches or agencies at such places, in or outside India as it may consider necessary.

Sec. 5(1)(ffc) : Reconstruction Bank

Under s. 3 of the Industrial Reconstruction Bank of India Act, 1984, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established, for the purposes of this Act, a corporation, to be known as the Industrial Reconstruction Bank of India. The Reconstruction Bank shall be a body corporate with the name aforesaid, having 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 may, by that name, sue and be sued. The head office of the Reconstruction Bank shall be at Calcutta, and the Reconstruction Bank may establish offices, branches or agencies at any other place, whether in, or outside, India.

Sec. 5(1)(ffd) : National Housing Bank

Sec. 3 of the National Housing Bank Act, 1987 states : With effect from such date as the Central Government may, by notification, appoint, there shall be established for the purposes of this Act, a bank to be known as the National Housing Bank. The National Housing Bank shall be a body corporate with the name aforesaid having 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 may, by that name, sue and be sued. The head office of the National Housing Bank shall be at Bombay or at such other place as the Reserve Bank may, by notification, specify. The National Housing Bank may establish offices, branches or agencies at any place, in India, and with the previous approval of the Reserve Bank, at any place outside India.

Sec. 5(1)(g) : Gold

Sec. 2(j) of the Gold (Control) Act, 1962, defined “gold” as meaning gold, including its alloy (whether virgin, melted, or remelted, wrought or unwrought) in any shape or form, of a purity of not less than nine carats and includes primary gold, article and ornament.—*Sushil Kumar Porwal v. Vipin Maneklal, AIR 1987 (SC) 2167*

Sec. 5(1)(ha) : National Bank

Sec. 3 of the National Bank for Agriculture and Rural Development Act, 1981 providing for the establishment and incorporation of National Bank for Agriculture and Rural Development states: With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established for the purposes of this Act, a bank to be known as the National Bank for Agriculture and Rural Development. The bank shall be a body corporate with the name aforesaid having 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 may by that name, sue and be sued. The head office of the National Bank shall be at Bombay or at such other place as the Central Government may, by notification, specify. The National Bank may establish offices, branches or agencies at any place in India, and with the previous approval of the Central Government and in consultation with the Reserve Bank, at any place outside India.

Sec. 5(1)(j) : Prescribed

Under s. 52 of the Banking Regulation Act, the Central Government is empowered, after consultation with the Reserve Bank, to make rules to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of the Act, and all such rules shall be published in the Official Gazette. The word “prescribed” refers to these rules.

Sec. 5(1)(ja) : Regional Rural Bank

Sec. 3 of the Regional Rural Banks Act, 1976 says that the Central Government may, if requested so to do by a Sponsor Bank, by notification in the Official Gazette, establish in a State or Union Territory, one or more Regional Rural Banks with such name as may be specified in the notification and may by the said or subsequent notification, specify the local limits within which each Regional Rural Bank shall operate. Every Regional Rural Bank shall be a body corporate with 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 may sue, and be sued in its name. It shall be the duty of the Sponsor Bank to aid and assist the Regional Rural Bank, sponsored by it, by—(a) subscribing to the share capital of such Regional Rural Bank; (b) training personnel of such Regional Rural Bank; and (c) providing such managerial and financial assistance to such Regional Rural Bank during the first five years of its functioning, as may be mutually agreed upon between the Sponsor Bank and the Regional Rural Bank: Provided that the Central Government may, either on its own motion or on the recommendation of the National Bank, extend the said period of five years by such further period, not exceeding five years at a time, subject to such conditions as it may deem fit to impose.

Sec. 5(1)(nb) : Sponsor Bank

Sponsor Bank, in relation to a Regional Rural Bank, means a bank by which such Regional Rural Bank has been sponsored. (Sec. 2(g) of the Regional Rural Banks Act, 1976.)

¹[5A. Act to override memorandum, articles, etc.

Save as otherwise expressly provided in this Act,—

- (a) the provisions of this Act shall have effect notwithstanding anything to the contrary contained in the memorandum or articles of a banking company, or in any agreement executed by it, or in any resolution passed by the

¹ Inserted by Act 33 of 1959, w.e.f. 1-10-1959.

banking company in general meeting or by its Board of Directors, whether the same be registered, executed or passed, as the case may be, before or after the commencement of the Banking Companies (Amendment) Act, 1959 (33 of 1959); and

- (b) any provision contained in the memorandum, articles, agreement or resolution aforesaid shall, to the extent to which it is repugnant to the provisions of this Act, become or be void, as the case may be.]

PART II

BUSINESS OF BANKING COMPANIES

6. Form and business in which banking companies may engage

(1) In addition to the business of banking, a banking company may engage in any one or more of the following forms of business, namely,—

- (a) the borrowing, raising, or taking up of money; the lending or advancing of money either upon or without security; and drawing, making, accepting, discounting, buying, selling, collecting and dealing in bills of exchange, hundies, promissory notes, coupons, drafts, bill of lading, railway receipts, warrants, debentures, certificates, scrips and other instruments, and securities whether transferable or negotiable or not; the granting and issuing of letters of credit, travellers' cheques and circular notes; the buying, selling and dealing in bullion and specie; the buying and selling of foreign exchange including foreign bank notes; the acquiring, holding, issuing on commission, underwriting and dealing in stock, funds, shares, debentures, debenture stock, bonds, obligations, securities and investments of all kinds; the purchasing and selling of bonds, scrips or other forms of securities on behalf of constituents or others; the negotiating of loan and advances; the receiving of all kinds of bonds, scrips or valuables on deposit or for safe custody or otherwise; the providing of safe deposit vaults; the collecting and transmitting of money and securities;
- (b) acting as agents for any government or local authority or any other person or persons; the carrying on of agency business of any description including the clearing and forwarding of goods, giving of receipts and discharges and otherwise acting as an attorney on behalf of customers, but excluding the business of a ¹[Managing Agent or Secretary and Treasurer] of a company;
- (c) contracting for public and private loans and negotiating and issuing the same;
- (d) the effecting, insuring, guaranteeing, underwriting, participating in managing and carrying out of any issue, public or private, of State, municipal or other loans or of shares, stock, debentures or debenture stock of any company, corporation or association and the lending of money for the purpose of any such issue;
- (e) carrying on and transacting every kind of guarantee and indemnity business;

¹ Substituted for "Managing Agent" by Act 33 of 1959, w.e.f. 1-10-1959.

- (f) managing, selling and realising any property which may come into the possession of the company in satisfaction or part satisfaction of any of its claims;
 - (g) acquiring and holding and generally dealing with any property or any right, title or interest in any such property which may form the security or part of the security for any loans or advances or which may be connected with any such security;
 - (h) undertaking and executing trusts;
 - (i) undertaking the administration of estates as executor, trustee or otherwise;
 - (j) establishing and supporting or aiding in the establishment and support of associations, institutions, funds, trusts, and conveniences calculated to benefit employees or ex-employees of the company or the dependents or connections of such persons; granting pension and allowances and making payments towards insurance; subscribing to or guaranteeing moneys for charitable or benevolent object or for any exhibition or for any public, general or useful object;
 - (k) the acquisition, construction, maintenance and alteration of any building or works necessary or convenient for the purpose of the company;
 - (l) selling, improving, managing, developing, exchanging, leasing, mortgaging, disposing of or turning into account or otherwise dealing with all or any part of the property and rights of the company;
 - (m) acquiring and undertaken the whole or any part of the business of any person or company, when such business is of a nature enumerated or described in this sub-section;
 - (n) doing all such other things as are incidental or conducive to the promotion or advancement of the business of the company;
 - (o) any other form of business which the Central Government may, by notification in the Official Gazette, specify as a form of business in which it is lawful for a banking company to engage.
- (2) No banking company shall engage in any form of business other than those referred to in sub-section (1).

COMMENTS

Where the Bank issued an irrevocable letter of credit and had designated it as transferable then it must be taken that the Bank have consented to a transfer of letter of credit in accordance with the terms thereof. The banker is not entitled to rely upon the terms of the contract between the buyer and the seller after the letter of credit issued and notified to the seller renders the Bank liable to the seller to pay purchase price upon tender of document.—*AIR 1983 (Cal.) 106*. Under s. 6(2), a banking company is expressly prohibited from carrying on any kind of incidental or allied business other than those mentioned in sub-cl. (a) to (o) of s. 6(1). But a banking company may engage in any other business specified therein in addition to the business of banking.—*AIR 1961 (Cal) 666 : AIR 1986 (Kerr) 126*

In *AIR 1983 Mad 15*, it was held that s. 6 provides for wide variety of business which a banking company may engage itself in, chit fund transaction indulged in by a banking company partakes character of a banking activity.

¹[7. Use of words *bankf*, *bankerf*, *bankingf* or *banking companyf*

(1) No company other than a banking company shall use as part of its name ²[or, in connection with its business] any of the words “bank”, “banker” or “banking” and no company shall carry on the business of banking in India unless it uses as part of its name at least one of such words.

¹ Substituted by Act 55 of 1963, w.e.f. 1-2-1964.

² Inserted by Act 1 of 1984, w.e.f. 15-2-1984.

(2) No firm, individual or group of individuals shall, for the purpose of carrying on any business use as part of its or his name any of the words "bank", "banking" or "banking company".

(3) Nothing in this section shall apply to—

- (a) a subsidiary of a banking company formed for one or more of the purposes mentioned in sub-section (1) of section 19, whose name indicates that it is a subsidiary of that banking company;
- (b) any association of banks formed for the protection of their mutual interests and registered under section 25 of the Companies Act, 1956 (1 of 1956).]

8. Prohibition of trading

Notwithstanding anything contained in section 6 or in any contract, no banking company shall directly or indirectly deal in the buying or selling or bartering of goods, except in connection with the realization of security given to or held by it, or engage in any trade, or buy, sell or barter goods for others otherwise than in connection with bills of exchange received for collection or negotiation or with such of its business as is referred to in clause (i) of sub-section (1) of section 6:

¹[PROVIDED that this section shall not apply to any such business as is specified in pursuance of clause (o) of sub-section (1) of section 6.]

Explanation: For the purposes of this section, "goods" means every kind of movable property, other than actionable claims, stock, shares, money, bullion and specie and all instruments referred to in clause (a) of sub-section (1) of section 6.

COMMENTS

Sec. 8 is intended to prohibit a bank from engaging directly or indirectly in trading activities and undertaking trading risks in addition to ordinary banking risks. Certain banks have been found to engage in such activities under the guise of agency business. Restriction on the right of foreman to do other business with proceeds of chit fund business would not be unreasonable restriction on foreman's right to carry on business. It is in line with recommendations of study group on Non-banking Financial Intermediaries. Sec. 8 of Banking Regulation Act is also a pointer to the restrictions.—*AIR 1989 (Kar) 125*

9. Disposal of non-banking assets

Notwithstanding anything contained in section 6, no banking company shall hold any immovable property, howsoever acquired, except such as is required for its own use, for any period exceeding seven years from the acquisition thereof or from the commencement of this Act, whichever is later or any extension of such period as in this section provided, and such property shall be disposed of within such period or extended period, as the case may be:

PROVIDED that the banking company may, within the period of seven years as aforesaid, deal or trade in any such property for the purpose of facilitating the disposal thereof:

PROVIDED FURTHER that the Reserve Bank may in any particular case extend the aforesaid period of seven years by such period not exceeding five years where it is satisfied that such extension would be in the interests of the depositors of the banking company.

¹ Substituted by Act 1 of 1984, w.e.f. 15-2-1984.

COMMENTS

A banking company can acquire immovable property for its own use. Having acquired such property, it can be used for its own use, but if there is some extra portion left, section does not say that, that portion cannot be let out. Even if portion is let out to a tenant, it would be in Bank's own use and no question of selling same will arise under this provision. The provisions of s. 9 apply only in cases where the bank acquires building otherwise than for its own use.—(1983) 141 ITR 886 (Del)

¹**10. Prohibition of employment of Managing Agents and restrictions on certain forms of employment**

(1) No banking company—

(a) shall employ or be managed by a Managing Agent; or

(b) shall employ or continue the employment of any person—

(i) who is, or at any time has been, adjudicated insolvent, or has suspended payment or has compounded with his creditors, or who, is or has been, convicted by a criminal court of an offence involving moral turpitude; or

(ii) whose remuneration or part of whose remuneration takes the form of commission or of a share in the profits of the company:

²[PROVIDED that nothing contained in this sub-clause shall apply to the payment by a banking company of—

(a) any bonus in pursuance of a settlement or award arrived at or made under any law relating to industrial disputes or in accordance with any scheme framed by such banking company or in accordance with the usual practice prevailing in banking business;

(b) any commission to any broker (including guarantee broker), cashier-contractor, clearing and forwarding agent, auctioneer or any other person, employed by the banking company under a contract otherwise than as a regular member of the staff of the company; or]

(iii) whose remuneration is, in the opinion of the Reserve Bank, excessive; or

(c) shall be managed by any person—

²[(i) who is a Director of any other company not being—

(a) a subsidiary of the banking company, or

(b) a company registered under section 25 of the Companies Act, 1956 (1 of 1956):

PROVIDED that the prohibition in this sub-clause shall not apply in respect of any such Director for a temporary period not exceeding three months or such further period not exceeding nine months as the Reserve Bank may allow; or]

(ii) who is engaged in any other business or vocation; or

(iii) ³[whose term of office as a person managing the company is] for a period exceeding five years at any one time:

1 Substituted by Act 95 of 1956 w.e.f. 14-1-1957.

2 Substituted by Act 33 of 1959 w.e.f. 1-10-1959.

3 Substituted for "who has a contract with the company for its management" by Act 55 of 1963, w.e.f. 1-2-1964.

¹[PROVIDED that the term of office of any such person may be renewed or extended by further periods not exceeding five years on each occasion subject to the condition that such renewal or extension shall not be sanctioned earlier than two years from the date on which it is to come into force:

PROVIDED ALSO that where the term of office of such person is for an indefinite period, such term, unless it otherwise comes to an end earlier, shall come to an end immediately on the expiry of five years from the date of his appointment or on the expiry of three months from the date of commencement of section 8 of the Banking Laws (Miscellaneous Provisions) Act, 1963 (55 of 1963), whichever is later:]

PROVIDED FURTHER that nothing in this clause shall apply to a Director, other than the Managing Director, of a banking company by reason only of his being such Director.

Explanation : For the purpose of sub-clause (iii) of clause (b), the expression "remuneration", in relation to a person employed or continued in employment, shall include salary, fees and perquisites but shall not include any allowances or other amounts paid to him for the purpose of reimbursing him in respect of the expenses actually incurred by him in the performance of his duties.

(2) In forming its opinion under sub-clause (iii) of clause (b) of sub-section (1), the Reserve Bank may have regard among other matters to the following:—

- (i) the financial condition and history of the banking company, its size and area of operation, its resources, the volume of its business, and the trend of its earning capacity;
- (ii) the number of its branches or offices;
- (iii) the qualifications, age and experience of the person concerned;
- (iv) the remuneration paid to other persons employed by the banking company or to any person occupying a similar position in any other banking company similarly situated; and
- (v) the interests of its depositors.

²[x x x]

(6) Any decision or order of the Reserve Bank made under this section shall be final for all purposes.]

COMMENTS

Even if management does not wish to dismiss employee who has been convicted of an offence involving moral turpitude employee cannot be continued in service in view of prohibition contained in provision.—(1984) 65 FJR 221 (Del). In (1986) 2 SLR 238 (P&H), it was held that an employee of the bank, convicted under the Excise Act involving moral turpitude but released on probation of good conduct by a criminal court, can still be dismissed from service of the bank. But in (1989) 39 ELT 245 (Mad), it was ruled that an employee convicted under the Customs Act for possessing foreign goods without the necessary customs documents cannot be terminated from service subsequently under s. 10 since there involved no moral turpitude.

¹ Substituted for the first proviso by Act 55 of 1963, w.e.f. 1-2-1964.

² Sub-sections (3), (4) and (5) omitted by Act 55 of 1963, w.e.f. 1-2-1964.

¹[10A. Board of Directors to include persons with professional or other experience

(1) Notwithstanding anything contained in any other law for the time being in force, every banking company—

- (a) in existence on the commencement of section 3 of the Banking Laws (Amendment) Act, 1968, or
- (b) which comes into existence thereafter,

shall comply with the requirements of this section:

PROVIDED that nothing contained in this sub-section shall apply to a banking company referred to in clause (a) for a period of three months from such commencement.

(2) Not less than fifty-one per cent of the total number of members of the Board of Directors of a banking company shall consist of persons, who—

- (a) shall have special knowledge or practical experience in respect of one or more of the following matters, namely,—
 - (i) accountancy,
 - (ii) agriculture and rural economy,
 - (iii) banking,
 - (iv) co-operation,
 - (v) economics,
 - (vi) finance,
 - (vii) law,
 - (viii) small-scale industry,
 - (ix) any other matter the special knowledge of, and practical experience in, which would, in the opinion of the Reserve Bank, be useful to the banking company:

PROVIDED that out of the aforesaid number of Directors, not less than two shall be persons having special knowledge or practical experience in respect of agriculture and rural economy, co-operation or small-scale industry; and

- (b) shall not—
 - (1) have substantial interest in, or be connected with, whether as employee, manager or managing agent—
 - (i) any company, not being a company registered under section 25 of the Companies Act, 1956 (1 of 1956), or
 - (ii) any firm, which carries on any trade, commerce or industry and which, in either case, is not a small-scale industrial concern, or
 - (2) be proprietors of any trading, commercial or industrial concern, not being a small-scale industrial concern.

²[(2A) Notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or in any other law for the time being in force,—

- (i) no Director of a banking company, other than its Chairman or whole-time Director, by whatever name called, shall hold office continuously for a period exceeding eight years³ [and ten years in case of a co-operative bank];

¹ Sections 10A to 10D inserted by Act 58 of 1968, w.e.f. 1-2-1969.

² Inserted by Act 1 of 1984, w.e.f. 15-2-1984.

³ Inserted by the Banking Laws (Amendment) Act, 2025 (No. 16 of 2025), dt. 15-4-2025, w.e.f. 1-8-2025 vide SO 3494(E), dt. 29-7-2025.

(ii) a Chairman or other whole-time Director of a banking company who has been removed from office as such Chairman, or whole-time Director, as the case may be, under the provisions of this Act shall also cease to be a Director of the banking company and shall also not be eligible to be appointed as a Director of such banking company, whether by election or co-option or otherwise, for a period of four years from the date of his ceasing to be the Chairman or whole-time Director, as the case may be.]

(3) If, in respect of any banking company, the requirements, as laid down in sub-section (2), are not fulfilled at any time, the Board of Directors of such banking company shall re-constitute such Board so as to ensure that the said requirements are fulfilled.

(4) If, for the purpose of re-constituting the Board under sub-section (3), it is necessary to retire any Director or Directors, the Board may, by lots drawn in such manner as may be prescribed, decide which Director or Directors shall cease to hold office and such decision shall be binding on every Director of the Board.

(5) Where the Reserve Bank is of opinion that the composition of the Board of Directors of a banking company is such that it does not fulfil the requirements of sub-section (2), it may, after giving to such banking company a reasonable opportunity of being heard, by an order in writing, direct the banking company to so re-constitute its Board of Directors as to ensure that the said requirements are fulfilled and, if within two months from the date of receipt of that order, the banking company does not comply with the directions made by the Reserve Bank, that Bank may, after determining, by lots drawn in such manner as may be prescribed, the person who ought to be removed from the membership of the Board of Directors, remove such person from the office of the Director of such banking company and with a view to complying with the provisions of sub-section (2), appoint a suitable person as a member of the Board of Directors in the place of the person so removed whereupon the person so appointed shall be deemed to have been duly elected by the banking company as its Director.

(6) Every appointment, removal or reconstitution duly made, and every election duly held, under this section shall be final and shall not be called into question in any court.

(7) Every Director elected or, as the case may be, appointed under this section shall hold office until the date up to which his predecessor would have held office, if the election had not been held, or, as the case may be, the appointment had not been made.

(8) No act or proceeding of the Board of Directors of a banking company shall be invalid by reason only of any defect in the composition thereof or on the ground that it is subsequently discovered that any of its members did not fulfil the requirements of this section.

10B. Banking company to be managed by whole-time Chairman

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

1 Substituted by Act 20 of 1994, w.e.f. 31-1-1994.

PROVIDED that the Chairman shall exercise his powers subject to the superintendence, control and direction of the Board of Directors.

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

- (i) such appointment shall be with the previous approval of the Reserve Bank and be subject to such conditions as the Reserve Bank may specify while giving such approval;
- (ii) the management of the whole of the affairs of such banking company shall be entrusted to a Managing Director who shall exercise his powers subject to the superintendence, control and direction of the Board of Directors.]

(2) ¹[Every Chairman of the Board of Directors who is appointed on a whole-time basis and every Managing Director] of a banking company shall be in the whole-time employment to such company and shall hold office for such period, not exceeding five years, as the Board of Directors may fix, but shall, subject to the provisions of this section, be eligible for re-election or re-appointment:

PROVIDED that nothing in this sub-section shall be construed as prohibiting a chairman from being a Director of a subsidiary of the banking company or a Director of a company registered under section 25 of the Companies Act, 1956 (1 of 1956).

(3) Every person holding office on the commencement of section 3 of the Banking Laws (Amendment) Act, 1968 (58 of 1968), as Managing Director of a banking company shall—

- (a) if there is a Chairman of its Board of Directors, vacate office on such commencement, or
- (b) if there is no Chairman of its Board of Directors, vacate office on the date on which the Chairman of its Board of Directors is elected or appointed in accordance with the provisions of this section.

(4) ¹[Every Chairman who is appointed on a whole-time basis and every Managing Director of a banking company appointed under sub-section (1A)] shall be a person who has special knowledge and practical experience of—

- (a) the working of a banking company or of the State Bank of India or any subsidiary bank or a financial institution, or
- (b) financial, economic or business administration:

PROVIDED that a person shall be disqualified for being a ¹[Chairman who is appointed on a whole-time basis or a Managing Director], if he—

- (a) is a Director of any company other than a company referred to in the proviso to sub-section (2), or
- (b) is a partner of any firm which carries on any trade, business or industry, or
- (c) has substantial interest in any other company or firm, or
- (d) is a Director, Manager, Managing Agent, Partner or Proprietor of any trading, commercial or industrial concern, or
- (e) is engaged in any other business or vocation.

¹ Substituted for "Every Chairman of the Board of Directors" by Act 20 of 1994, w.e.f. 31-1-1994.

(5) ¹[A Chairman of the Board of Directors appointed on a whole-time basis or a Managing Director] of a banking company may, by writing under his hand addressed to the company, resign his office ²[x x].

³[(5A) ¹[A Chairman of the Board of Directors appointed on a whole-time basis or a Managing Director] whose term of office has come to an end, either by reason of his resignation or by reason of expiry of the period of this office, shall, subject to the approval of the Reserve Bank, continue in office until his successor assumes office.]

(6) Without prejudice to the provisions of section 36AA, where the Reserve Bank is of opinion that any person who is, or has been elected to be, the ⁴[Chairman of the Board of Directors who is appointed on a whole-time basis or the Managing-Director] of a banking company is not a fit and proper person to hold such office, it may, after giving to such person and to the banking company a reasonable opportunity of being heard, by order in writing, require the banking company to elect or appoint any other person as the ⁴[Chairman of the Board of Directors who is appointed on a whole-time basis or the Managing-Director] and if, within a period of two months from the date of receipt of such order, the banking company fails to elect or appoint a suitable person as the ⁴[Chairman of the Board of Directors who is appointed on a whole-time basis or the Managing Director], the Reserve Bank may, by order, remove the first-mentioned person from the office, of the ⁴[Chairman of the Board of Directors who is appointed on a whole-time basis or a Managing Director] of the banking company and appoint a suitable person in his place whereupon the person so appointed shall be deemed to have been duly elected or appointed, as the case may be, as the ⁴[Chairman of the Board of Directors who is appointed on a whole-time basis or the Managing Director] of such banking company and any person elected or ⁵[appointed as Chairman on a whole-time basis or Managing Director] under this sub-section shall hold office for the residue of the period of office of the person in whose place he has been so elected or appointed.

(7) The banking company and any person against whom an order of removal is made under sub-section (6) may, within thirty days from the date of communication to it or to him of the order, prefer an appeal to the Central Government and the decision of the Central Government thereon, and subject thereto, the order made by the Reserve Bank under sub-section (6), shall be final and shall not be called into question in any court.

(8) Notwithstanding anything contained in this section, the Reserve Bank may, if in its opinion it is necessary in the public interest so to do, permit ⁶[the Chairman of the Board of Directors who is appointed on a whole-time basis or a Managing Director] to undertake such part-time honorary work as is not likely to interfere with his duties as ⁷[such Chairman or Managing Director.]

(9) Notwithstanding anything contained in this section, where a person ⁵[appointed on a whole-time basis, as Chairman of the Board of Directors or the Managing Director] dies or resigns or is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his office, the banking company may, with the approval of the Reserve Bank, make suitable arrangements for carrying out the ⁸[duties of Chairman or Managing Director] for a total period not exceeding four months.]

1 Substituted for "A Chairman of the Board of directors" by Act 20 of 1994, w.e.f. 31-1-1994.

2 Words "but shall continue in office until his successor assumes office" omitted by Act 1 of 1984, w.e.f. 15-2-1984.

3 Inserted by Act 1 of 1984, w.e.f. 15-2-1984.

4 Substituted for "Chairman of its Board of directors" by Act 22 of 1994, w.e.f. 31-1-1994.

5 Substituted for "appointed as Chairman" by Act 22 of 1994, w.e.f. 31-1-1994.

6 Substituted for "the Chairman" by Act 20 of 1994, w.e.f. 31-1-1994.

7 Substituted for "such Chairman" by Act 20 of 1994, w.e.f. 31-1-1994.

8 Substituted for "duties of Chairman" by Act 20 of 1994, w.e.f. 31-1-1994.

¹[10BB. Power of Reserve Bank to appoint ²[Chairman of the Board of Directors appointed on a whole-time basis or Managing Director] of a banking company

(1) Where the office of the ²[Chairman of the Board of Directors appointed on a whole-time basis or the Managing Director] of a banking company is vacant, the Reserve Bank may, if it is of opinion that the continuation of such vacancy is likely to adversely affect the interests of the banking company, appoint a person, eligible under sub-section (4) of section 10B to be so appointed, to be the ²[Chairman of the Board of Directors appointed on a whole-time basis or a Managing Director] of the banking company and where the person so appointed is not a director of such banking company, he shall, so long as he holds the office of the ²[Chairman of the Board of Directors appointed on a whole-time basis or a Managing Director], be deemed to be a Director of the banking company.

(2) The ²[Chairman of the Board of Directors appointed on a whole-time basis or a Managing Director] so appointed by the Reserve Bank shall be in the whole-time employment of the banking company and shall hold office for such period not exceeding three years, as the Reserve Bank may specify, but shall, subject to other provisions of this Act, be eligible for re-appointment.

(3) The ²[Chairman of the Board of Directors appointed on a whole-time basis or a Managing Director] so appointed by the Reserve Bank shall draw from the banking company such pay and allowances as the Reserve Bank may determine and may be removed from office only by the Reserve Bank.

(4) Save as otherwise provided in this section, the provisions of section 10B shall, as far as may be, apply to the ²[Chairman of the Board of Directors appointed on a whole-time basis or a Managing Director] appointed by the Reserve Bank under sub-section (1) as they apply to a ²[Chairman of the Board of Directors appointed on a whole-time basis or the Managing Director] appointed by the banking company.]

³[10C. Chairman and certain Directors not to be required to hold qualification shares

²[Chairman of the Board of Directors who is appointed on a whole-time basis or a Managing Director] of a banking company (by whomsoever appointed) and a director of a banking company (appointed by the Reserve Bank under section 10A) shall not be required to hold qualification shares in the banking company.]

⁴[10D. Provisions of sections 10A and 10B to override all other laws, contracts, etc.

Any appointment or removal of a ²[Director, Chairman of the Board of Directors who is appointed on a whole-time basis or Managing Director] in pursuance of section 10A or section 10B ¹[or section 10BB] shall have effect and any such person shall not be entitled to claim any compensation for the loss or termination of office, notwithstanding anything contained in any law or in any contract, memorandum or articles of association.]

11. Requirement as to minimum paid-up capital and reserves

(1) Notwithstanding anything contained in ⁵[section 149 of the Companies Act, 1956 (1 of 1956)], no banking company in existence on the commencement of this Act, shall, after the expiry of three years from such commencement or of such further period

1 Inserted by Act 1 of 1984, w.e.f. 15-2-1984.

2 Substituted for "Chairman" by Act 20 of 1994, w.e.f. 31-1-1994.

3 Substituted by Act 1 of 1984, w.e.f. 15-2-1984.

4 Inserted by Act 58 of 1968, w.e.f. 1-2-1969.

5 Substituted for "sec. 103 of the Indian Companies Act, 1913 (7 of 1913)" by Act 95 of 1956, w.e.f. 14-1-1957.

not exceeding one year as the Reserve Bank, having regard to the interests of the depositors of the company, may think fit in any particular case to allow, carry on business ¹[in India], and no other banking company shall, after the commencement of this Act, commence or carry on business ¹[in India], ²[unless it complies with such of the requirements of this section as are applicable to it.]

²[(2) In the case of a banking company incorporated outside India—

- (a) the aggregate value of its paid-up capital and reserves shall not be less than fifteen lakhs of rupees and if it has a place or places of business in the city of Bombay or Calcutta or both, twenty lakhs of rupees; and
- (b) ³[the banking company shall deposit and keep deposited with the Reserve Bank either in cash or in the form of unencumbered approved securities, or partly in cash and partly in the form of such securities—
 - (i) an amount which shall not be less than the minimum required by clause (a); and
 - (ii) as soon as may be after the expiration of each ⁴[x x] year, an amount calculated at twenty per cent of its profit for that year in respect of all business transacted through its branches in India, as disclosed in the profit and loss account prepared with reference to that year under section 29:]

PROVIDED that any such banking company may at any time replace—

- (i) any securities so deposited by cash or by any other unencumbered approved securities or partly by cash and partly by other such securities, so however, that the total amount deposited is not affected;
- (ii) any cash so deposited by unencumbered approved securities of an equal value.]

⁵[(2A) Notwithstanding anything contained in sub-section (2), the Central Government may, on the recommendation of the Reserve Bank, and having regard to the adequacy of the amounts already deposited and kept deposited by a banking company under sub-section (2), in relation to its deposit liabilities in India declare by order in writing that the provisions of sub-clause (ii) of clause (b) of sub-section (2) shall not apply to such banking company for such period as may be specified in the order.]

(3) In the case of any banking company to which the provisions of sub-section (2) do not apply, the aggregate value of its paid-up capital and reserves shall not be less than —

- (i) if it has places of business in more than one State, five lakh of rupees, and if any such place or places of business is or are situated in the city of Bombay or Calcutta or both, ten lakhs of rupees;
- (ii) if it has all its places of business in one State none of which is situated in the city of Bombay or Calcutta, one lakh of rupees in respect of its principal place of business, plus ten thousand rupees in respect of each of its other places of business, situated in the same district in which it has its principal place of business, plus twenty-five thousand rupees in respect of each place of business situated elsewhere in the State otherwise than in the same district:

1 Substituted for "in any State" by Act 20 of 1950, w.e.f. 18-3-1950.

2 Substituted by Act 33 of 1959, w.e.f. 1-10-1959.

3 Substituted by Act 36 of 1962, w.e.f. 16-9-1962.

4 Word "calendar" omitted by the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988 (Act 66 of 1988), w.e.f. 30-12-1988.

5 Inserted by Act 36 of 1962, w.e.f. 16-9-1962.

PROVIDED that no banking company to which this clause applies shall be required to have paid-up capital and reserves exceeding an aggregate value of five lakhs of rupees:

PROVIDED FURTHER that no banking company to which this clause applies and which has only one place of business, shall be required to have paid-up capital and reserves exceeding an aggregate value of fifty thousand rupees:

¹[PROVIDED FURTHER that in the case of every banking company to which this clause applies and which commences banking business for the first time after the commencement of the Banking Companies (Amendment) Act, 1962 (36 of 1962), the value of its paid-up capital shall not be less than five lakhs of rupees;]

- (iii) if it has all its places of business in one State, or more of which is or are situated in the city of Bombay or Calcutta, five lakhs of rupees, plus twenty-five thousand rupees in respect of each place of business situated outside the city of Bombay or Calcutta, as the case may be:

PROVIDED that no banking company to which this clause applies shall be required to have paid-up capital and reserves exceeding an aggregate value of ten lakhs of rupees.

Explanation : For the purposes of this sub-section, a place of business situated ²[in a State] other than that in which the principal place of business of the banking company is situated shall, if it is not more than twenty-five miles distant from such principal place of business, be deemed to be situated within the same State as such principal place of business.

(4) Any amount deposited and kept deposited with the Reserve Bank under ³[xxx] sub-section (2) by any banking company incorporated ⁴[outside India] shall, in the event of the company ceasing for any reason to carry on banking business ⁵[in India], be an asset of the company on which the claims of all the creditors of the company ⁵[in India] shall be a first charge.

⁶[(5) For the purposes of this section—

- (a) “place of business” means any office, sub-office, sub-pay office and any place of business at which deposits are received, cheques cashed or moneys lent;
- (b) “value” means the real or exchangeable value, and not the nominal value which may be shown in the books of the banking company concerned.]

(6) If any dispute arises in computing the aggregate value of the paid-up capital and reserves of any banking company, a determination thereof by the Reserve Bank shall be final for the purposes of this section.

COMMENTS

Sec. 149 of the Companies Act, 1956 lays down certain restrictions on the commencement of business of a company. The objects and reasons for the incorporation of s. 11 of the Banking Regulation Act, 1949 says : One of the chief defects of the Indian banking system is the weak and vulnerable capital structure of the vast majority of banks, as evidenced by the fact that during the years 1934-45, not less than 715 banking companies were liquidated or wound up, most of which possessed very poor capital resources. Even the minimum of Rs. 50,000 prescribed by the Indian

1 Inserted by Act 36 of 1962, w.e.f. 16-9-1962.

2 Substituted for “in India” by Act 62 of 1956, w.e.f. 1-11-1956.

3 Words “the proviso to” omitted by Act 33 of 1959, w.e.f. 1-10-1959.

4 Substituted for “elsewhere than in a State” by Act 20 of 1950, w.e.f. 18-3-1950.

5 Substituted for “in the State” by Act 20 of 1950, w.e.f. 18-3-1950.

6 Substituted by Act 33 of 1959, w.e.f. 1-10-1959.