

INDUSTRIAL DEVELOPMENT BANK OF INDIA ACT, 1964

18 of 1964

[[16th May, 1964]]

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short title, extent and commencement
2. Definitions

CHAPTER 2 :- ESTABLISHMENT OF THE INDUSTRIAL DEVELOPMENT BANK OF INDIA AND CAPITAL THEREOF

3. Establishment and incorporation of Industrial Development Bank of India
4. Authorised capital
 - 4A. Transfer of capital to Central Government
 - 4B. Payment of amount
 - 4C. Issued capital
 - 4D. Reduction of share capital
 - 4E. Conversion of equity shares into redeemable preference shares

CHAPTER 3 :- MANAGEMENT OF THE DEVELOPMENT BANK

5. Management
6. Constitution of Board
 - (6A). Omitted
 - 6B. Disqualifiers of directors
 - 6C. Vacation of office by director
7. Executive Committee and other Committees
8. Fees and allowances of directors and members of committees

CHAPTER 4 :- BUSINESS OF THE DEVELOPMENT BANK

9. Business of Development Bank
 - 9A. Prohibited business
10. Loans by Central Government
11. Borrowings and acceptance of deposits by Development Bank
 - 11A. Power to transfer rights
 - 11B. Power to acquire rights
12. Loans in foreign currency
13. Grants, donations etc., to Development Bank

CHAPTER 4A :- SHARES

- 13A. Free transferability of shares
- 13B. Register of share-holders
- 13BA. Register of beneficial owners
- 13C. Trust not to be entered on the register of shareholders
- 13D. Boards rights to refuse registration of transfer of shares
- 13E. Shares to be securities under the Indian Trusts Act, 1882

CHAPTER 4B :- MEETINGS AND PROCEEDINGS

- 13F. Annual general meeting
- 13G. Restriction on exercising of voting right
- 13H. Matters to be discussed and procedure in annual general meeting

CHAPTER 5 :- DEVELOPMENT ASSISTANCE FUND

- 14. Development Assistance Fund
- 15. Credits to Development Assistance Fund
- 16. Utilisation of Development Assistance Fund
- 17. Debts to Development Assistance Fund
- 18. Accounts and audit of Development Assistance Fund
- 19. Liquidation of Development Assistance Fund

CHAPTER 6 :- GENERAL FUND, ACCOUNTS AND AUDIT

- 20. General Fund
- 21. Preparation of accounts and balance-sheet
- 22. Disposal of profits accruing to General Fund
- 23. Audit
- 24. Saving

CHAPTER 7 :- TRANSFER OF BUSINESS OF REFINANCE CORPORATION FOR INDUSTRY

- 25. Transfer of assets and liabilities of Refinance Corporation for Industry

CHAPTER 8 :- MISCELLANEOUS

- 26. Staff of Development Bank
- 27. Delegation of powers
- 28. Returns
- 29. Obligation as to fidelity and secrecy
- 30. Defects in appointments not to invalidate acts, etc
- 30A. Arrangement with Development Bank on appointment of directors to prevail
- 31. Indemnity of directors
- 32. Protection of action taken under this Act
- 32A. Nomination in respect of deposits, bonds, etc
- 33. Act 18 of 1891 to apply in relation to Development Bank
- 34. Act 10 of 1949 not to apply to Development Bank
- 35. Act 43 of 1961 and Act 14 of 1963 not to apply to Development

Bank

36. Liquidation of Development Bank

37. Power to make regulations

38. Amendment of certain enactments

39. Power to remove difficulty

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"The existing arrangements for the provision of credit for the expansion or development of industry are not adequate in relation to the needs of the various enterprises or projects. It is proposed, therefore, to establish a new institution, to be known as the Industrial Development Bank of India. It will be wholly-owned subsidiary of the Reserve Bank of India and will be managed by a Board of Directors consisting of persons who are for the time being the members of the Central Board of the Reserve Bank. 2. The Industrial Development Bank of India will be able to co-ordinate the activities of all the institutions which are or may be concerned with the provision of finance for industrial development. It will be in a position to provide refinance to these institutions or to grant direct loans to industrial concerns or to promote and develop key industries, as circumstances may require. 3. The provisions of the Bill are explained in detail in the notes on clauses."-S.O.R. Gazette of India, 27-2-1964, Pt, II, section 2, extra. page 60. Amending Act No. 75 of 1972 It has been found from experience gained by the Industrial Development Bank of India in its working, since its establishment in 1964, that it is necessary to amend the Act in certain respects. 2. The definition of 'industrial concern' under section 2(c) of the Act is proposed to be enlarged to include establishments engaged in maintenance and repairs of vehicles as well as concerns engaged in fishing or in the maintenance of shore facilities for fishing, so as to enable the Industrial Development Bank of India to play its role effectively in all fields as an apex institution for financing and refinancing other institutions. 3. Section 9 of the Act dealing with the scope of the business of the Development Bank is proposed to be enlarged in several respects. The Development Bank, at present, refinances loans and advances granted by the Industrial Finance Corporation of India, State Financial Corporations, Scheduled Banks and State Co-operative Banks to industrial concerns. Since some of these institutions give

loans and advances for the establishment of industrial estates also but are unable to do so adequately from within their own limited resources, it is proposed to authorise the Development Bank to refinance these institutions in relation to such activities. 4. At present the Development Bank is empowered to refinance loans given by the State Financial Corporations, the Industrial Finance Corporation of India, the commercial banks and the co-operative banks for the export of machinery and merchandise. It is now proposed to extend these facilities of refinance to the institutions financing the agencies exporting manufactured capital goods and to the concerns or persons in India executing turn-key jobs in foreign countries. The refinancing facilities extended by the Development Bank are now restricted to the cases where the primary lending institution advances loans repayable within a period of ten years in all cases. It is now proposed to liberalise this provision to cases where the primary lending institutions grant loans to persons in India repayable within a period of 15 years and to persons outside India repayable within a period of 12 years. 5. The Development Bank can now accept, discount or rediscount bills of exchange and promissory notes of industrial concerns only. It is proposed to extend this facility to stockists or agents who sell plant and machinery of manufacturing concerns. The Act enables the Development Bank to subscribe, to shares and debentures of the Industrial Finance Corporation of India, the State Financial Corporations and any other financial institutions notified by the Central Government in this behalf. It is now proposed to enlarge the power so as to enable the Development Bank to participate in the share capital of notified financial institutions promoted outside India as well. 6. In the field of exports, it is now proposed to enable the Development Bank to grant loans and advances to any persons exporting products of industrial concerns or to any person outside India in connection with the export of capital goods from India, or for the execution of turn-key projects, outside India by any industrial concern or by any person in India. Financial assistance will therefore be available to parties outside India for importing capital goods from India and also for any activity in connection with it. The Development Bank is also being authorised to perform certain agency functions. 7. By a new section 9A, it is proposed to prohibit, subject to certain exceptions, the Development Bank from granting assistance to industrial concerns in which any director of the Development Bank may be having a beneficial interest. The Development Bank is the only institution

capable of financing very large projects in the core and heavy investment sectors. It is, therefore, provided that the prohibition may be relaxed in cases where the Development Bank is satisfied that it is necessary in the public interest to finance such an industrial concern if the assistance is given subject to such conditions and limitations as may be prescribed by the Development Bank with the prior approval of the Reserve Bank of India. 8. It is considered necessary to effect certain liberalisation in regard to the liability arising out of fluctuations in the rate of exchange during the period of repayment of the foreign currency loans borrowed by the Development Bank from foreign lending agencies. At present the liability arising out of fluctuations in foreign exchange is completely borne by the borrowing industrial concerns. It is now proposed that it need be borne by the borrowers only so long as they have not discharged their liability completely to the Development Bank. After that period the Development Bank will bear the losses arising out of the normal market fluctuations in foreign exchange and the Central Government will bear the losses in respect of fluctuations, such as devaluation of Indian currency or revaluation of foreign currency as may be adverse to Indian currency. Any profit arising from fluctuations in favour of Indian currency is also proposed to be similarly dealt with. 9. The Development Bank normally reserves the power to nominate one or more directors on the Boards of assisted concerns. The new section 30A is intended to enable the Development Bank to exercise the power effectively. 10. The Bill seeks to achieve these main objects. Opportunity has also been taken to incorporate some other amendments which are found necessary for the smooth working of the Development Bank and are of a consequential or procedural nature. The notes on clauses appended to the Bill explain the position thereof.- Gaz. of Ind., 8-12-72, Pt. II, section 2, Ext., p. 1544. Amending Act No. 52 of 1975 It is proposed to restructure the Industrial Development Bank of India in certain respects, so as to enlarge its role as the principal financial institution financing industry and for co-ordinating the working of other financial institutions engaged in the financing or promotion or development of industry. The financial institutions, in this context, include the Industrial Finance Corporation of India, the Life Insurance Corporation of India, the Unit Trust of India, the Industrial Reconstruction Corporation of India Limited, the State Financial Corporations, all in the public sector, the Industrial Credit and Investment Corporation of India Limited, in the private sector

and such other institutions as may be notified by the Central Government in this behalf. Besides these, the State Bank of India, its seven subsidiary banks, the fourteen nationalised banks, scheduled banks and the State Co-operative Banks are also proposed to be brought within the purview of co-ordination by the Development Bank as these institutions participate with the Development Bank and other term lending institutions in financing industry. 2. The Development Bank is at present a wholly owned subsidiary of the Reserve Bank of India; the Directors on the Central Board of the Reserve Bank constitute the Board of Directors of the Development Bank. It is now proposed to transfer the entire capital of the Development Bank held by the Reserve bank to the Central Government. There will also be a separate Board of Directors for the Development Bank on which the financial institutions and the public sector banks will be represented. 3. In view of the enlarged role envisaged for the Development Bank, it is proposed that it should take over the capital held by the Reserve Bank in the different State Financial Corporations and in the Unit Trust of India. Since the Life Insurance Corporation is already wholly owned by the Central Government, no restructuring of its capital is envisaged. 50 per cent of the share capital of the Industrial Reconstruction Corporation of India Limited and the Industrial Finance Corporation of India are already held by the Development Bank. The Development Bank does not propose to hold any share capital in the Industrial Credit and Investment Corporation of India Limited as it is an institution in the private sector. The corporation is, however, being represented on the Board of Directors of Development Bank along with the other institutions and public sector banks so as to facilitate co-ordinate functioning. 4. With the Development Bank assuming the role of the principal financial institution, it is proposed to have representatives of the Development Bank on the Boards of other institutions, wherever considered necessary or feasible. 5. To give effect to the above, amendments are proposed to the Industrial Development Bank of India Act, 1964, Reserve Bank of India Act, 1934, Industrial Finance Corporation Act, 1948, State Finance Corporations Act, 1951, Life Insurance Corporation Act, 1956 and Unit Trust of India Act, 1963. 6. Opportunity has also been taken to streamline other provisions of the different statutes and to propose certain amendments of a clarificatory nature. 7. The notes on clauses explain in detail the various provisions contained in the Bill. See Gaz. of India, 22-12-1973, Pt.II ,S.2,Ext.,p.1183.

Amendment Act 73 of 1976- It is proposed to bring about a measure of uniformity in the procedure for appointment, fixation of the terms and conditions of service including removal from, or termination of, service of the chairman, vice-chairman, and managing directors of the State Bank of India, chairmen of the Regional Rural Banks, chairman of the Industrial Finance Corporation of India and chairman and managing director of the Industrial Development Bank of India in the relevant enactments regulating the said institutions. These Executives will also have the option to relinquish office by giving the Central Government a notice of three months. It is proposed to make the amendments applicable to the existing incumbents of these offices also. : 2. Opportunity has also been taken to streamline some other provisions of these Statutes. SOR- See Gaz. of Ind..24-5-76, Pt. II, section 2, Ext., page 939.

Amendment Act 35 of 1986.- The Industrial Development Bank of India (the Development Bank) established under the Industrial Development Bank of India Act, 1964 is the principal financial institution for providing credit and other facilities for the development of industry, for coordinating the working of institutions engaged in financing, promoting or developing industries and for assisting the development of such institutions. The Development Bank has been providing direct financial assistance to large and medium large industrial concerns and also providing help to small and medium industrial concerns through banks and state-level financial institution. In the light of experience gained over the years, it is felt necessary to make some new activities also eligible for financial assistance and to enlarge the scope of business of the Development Bank to cover certain activities which the Development Bank could not take up in the absence of enabling provisions. It is also felt necessary to enlarge the capital base so as to enable the Development Bank to cater to the growing volume of business. It is also proposed to provide more operational flexibility to the Development Bank to enable it to discharge more effectively its functions as the principal financial institution for the development of industries. 2. The main proposals are as follows: (a) The present definition of "industrial concern" as contained in the Act does not include many important activities. It is, therefore, proposed to widen the definition of "industrial concern" so as to enable the Development Bank to provide financial assistance of mines, medical, health or allied services, leasing and sub-leasing activities, information technology, telecommunications and electronics. It is also proposed to empower the Central

Government to bring within the purview of the definition "industrial concern" engaged in activities which may be found to be support worthy. (b) In view of the expanding volume of its business and the expected growth if in the Development Bank's activities, it is proposed to raise the authorised capital of the Bank from Rs. 500 to Rs. 1,000 crores which limit may be increased by the Central Government up to Rs. 2,000 crores by notification in the .official Gazette. (c) It is proposed to enlarge the scope of business which the Development Bank can undertake by empowering it to grant lives of credit or loans and advances, otherwise than by way of subscription to shares/debentures to Industrial Finance Corporation of India, State Financial Corporations or any other financial institutions notified by the Central Government, to grant loans and advances to any person for purpose of investment in any industrial project to open and advise letters of credit and to negotiate or collect, bills and other documents drawn thereunder, to provide consultancy and merchant banking services in or outside India, to act as trustee for the holders of debentures and other securities and to provide for acquisition of business and undertaking of any other financial institution. In view of these amendments, the Development Bank will be able to undertake these activities and discharge its role as the principal financial institution. (d) It is proposed to amend the Act to enable the Development Bank to open offices even a the place where it has its head office. (e) A new provision is sought to be inserted to enable the Development Bank to purchase the participation certificates under the participation certificate scheme operated by IDBI, IFIC and ICICI providing for a single window clearance of the proposals for setting up an industrial unit, and speedy availability of funds for the project. (f) Presently, the directors nominated by the Central Government from amongst the employees of the Development Bank and financial institutions and persons having special skills and experience, hold office during the pleasure of the Central Government. It is proposed to provide that such members shall hold office for such term not exceeding three years as the Central Government may specify, (g) The accountig year of the Development Bank at present is from 1st July to 30th June. It is proposed to amend the Act to provide flexibility to the Development Bank to change the accounting year, if need be, 3. It is also proposed to make certain other minor and consequential amendments in the Act. 4. The Bill seeks to achieve the above objects. -Gaz. of Ind., 20-12-85, Pt.II, section 2, Ext., page 5 (.No. 73).

1. Short title, extent and commencement :-

(1) This Act may be called the Industrial Development Bank of India Act, 1964.-

(2) It extends¹to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification ² in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

1. Substitued for the words "Reserve Bank "by Public Financial Institutions Laws (Amendment) Act, 1975 (52 of 1975), S. 4 (16-2-1976).

2. Word "other" omitted by Industrial Development Bank of India (Amendment) Act (35 of 1986), Section 3 (14-8-86).

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "Board" means the Board of Directors of the Development Bank;

(b) "Development Bank" means the Industrial Development Bank of India established under section 3 ;

[(c) "Industrial concern" means any concern engaged or to be engaged in,-

(i) the manufacture, preservation or processing of goods;

(ii) shipping;

[(iii) mining including development of mines,]

(iv) the hotel industry.

(v) the transport of passengers or goods by road or by water or ¹[by air or by ropeway or by lift];

[(vi) the generation, storage or distribution of electricity or any other form of energy;]

(vii) the maintenance, repair, testing or servicing of [machinery or equipment] of any description or vehicles or vessels or motor boats or trailers or tractors.

(viii) assembling, repairing or packing any article with the aid of machinery or power;

[(ix) the setting up of or development of, an industrial area or an industrial estate;]

(x) fishing or providing shore facilities for fishing or maintenance thereof;

(xi) providing special or technical knowledge or other services for the promotion of industrial growth; or

[(xii) providing engineering, technical, financial, management, marketing or other services or facilities for industry;

(xiii) service industry such as altering, ornamenting, polishing, finishing, oiling, washing, cleaning or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal;

(xiv) providing medical, health or other allied services;

(xv) providing services relating to information technology, telecommunication or electronics;

(xvi) leasing, sub-leasing or giving on hire or hire-purchase of industrial plants, equipments, machinery or other assets including vehicles, ships and aircraft;

(xvii) such other activity as the Central Government may, having regard to the objects of this Act, by notification in the Official Gazette, specify in this behalf; or

(xviii) the research and development of any concept, technology, design, process or product whether in relation to any of the matters aforesaid, including any activities specified under sub-clause (xvii), or any other matter.

(d) "Industrial Finance Corporation" means the Industrial Finance Corporation of India -Limited formed and registered under Companies Act, 1956 .]

(da) "nationalised bank" means a corresponding new bank specified in the First Schedule to Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or a corresponding new bank specified in the First Schedule to Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;]

(e) "prescribed" means prescribed by regulations made under this Act;

(f) "Reserve Bank" means the Reserve Bank of India constituted under Reserve Bank of India Act, 1934 ;

(g) "scheduled bank" means a bank for the time being included in the Second Schedule to Reserve Bank of India Act, 1934 ;

2[(ga) "State Bank" means the State Bank of India constituted under State Bank of India Act, 1955 ;]

2[(gb) "subsidiary bank" has the meaning assigned to it in State Bank of India (Subsidiary Banks) Act, 1959;]

(h) "State co-operative bank" has the same meaning as in Reserve Bank of India Act, 1934 ;

(i) "State Financial Corporation" means a financial corporation established under section 3 or section 3A of State Financial Corporation Act, 1951 and includes [Tamil Nadu) Industrial Investment Corporation Limited;]

2 [(j) "Unit Trust" means the Unit Trust of India established under Section 3 of the Unit Trust of India Act, 1963 .]

1. Substituted for the words "Reserve Bank "by Public Financial Institutions Laws (Amendment) Act, 1975 (52 of 1975), S. 4 (16-2-1976).

2. Word "other" omitted by Industrial Development Bank of India (Amendment) Act (35 of 1986), Section 3 (14-8-86).

CHAPTER 2

ESTABLISHMENT OF THE INDUSTRIAL DEVELOPMENT BANK OF INDIA AND CAPITAL THEREOF

3. Establishment and incorporation of Industrial Development Bank of India :-

(1) 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.

(2) 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.

(3) The head office of the Development Bank shall be at Bombay or at such other place as the ¹ [Central Government] may, by notification in the Official Gazette, specify.

(4) The Development Bank may establish offices, branches or agencies at any [x x] place in or outside India.

1. Inserted by the Industrial Development Bank of India (Amendment) Act (5 of 1995), Section 5 (w.r.e.f. 12-10-94).

4. Authorised capital :-

(1) The authorised capital of the Development Bank shall be two thousand crores of rupees divided into one hundred and fifty crores fully paid-up equity shares of rupees ten each and subject to the provisions of section 4E , fifty crores of fully paid-up redeemable preference shares of rupees ten each.

(2) The Development Bank may, from time to time, by a resolution in general meeting, increase the authorised capital to an amount not exceeding five thousand crores of rupees consisting of such number of equity shares and redeemable preference shares as it deems fit.]

4A. Transfer of capital to Central Government :-

1

(1) The issued capital of the Development Bank which has been subscribed by the Reserve Bank as on the date immediately preceding the commencement of section 5 of the Public Financial Institutions Laws (Amendment) Act, 1975 (hereinafter referred to as the "appointed day", shall, on such commencement, stand transferred to, and vested in, the Central Government.

[(2) x x x x x x x x]

1. Inserted by the Industrial Development Bank of India (Amendment) Act (5 of 1995), Section 5 (w.r.e.f. 12-10-94).

4B. Payment of amount :-

The Reserve Bank shall be given by the Central Government, in cash, for the transfer to, and vesting in, the Central Government of the issued capital of the Development Bank which has been subscribed by the Reserve Bank, an amount equal to the face value of the said subscribed capital.]

4C. Issued capital :-

(1) The issued capital of the Development Bank of seven hundred and fifty-three crores of rupees which stands fully vested in and subscribed by the Central Government immediately before the commencement of the Industrial Development Bank of India (Amendment) Act, 1995 shall on such commencement, stand divided into seventy-five crores and thirty lakhs equity shares of rupees ten each.

(2) The Board may, from time to time, increase the issued equity share capital of the Development Bank by allotment of shares to such persons and on such terms and conditions as the Board may determine: Provided that no increase in the issued equity capital shall be made in such a manner that the Central Government holds at any time less than fifty-one per cent. of the issued equity capital of the Development Bank.

4D. Reduction of share capital :-

(1) The Development Bank may, by a resolution passed in a general meeting of the shareholders, reduce its share capital in any way.

(2) Without prejudice to the generality of the foregoing power, the share capital may be reduced by,-

(a) extinguishing or reducing the liability on any of its equity shares in respect of share capital not paid-up;

(b) either with or without extinguishing or reducing liability on any of its equity shares, cancelling any paid-up share capital which is lost, or is unrepresented by available assets; or

(c) either with or without extinguishing or reducing liability on any of its equity shares, paying off any paid-up share capital which is in excess of the wants of the Development Bank.

(3) In any general meeting referred to in sub-section (1), the resolution for reduction of share capital shall be passed by shareholders entitled to vote, voting in person, or, where proxies are allowed, by proxy, and the votes cast in favour of the resolution are not less than three times the number of the votes, if any, cast against the resolution by shareholders so entitled and voting.

4E. Conversion of equity shares into redeemable preference

shares :-

(1) The Central Government may, at any time after the commencement of the Industrial Development Bank of India (Amendment) Act, 1995 and by notification in the Official Gazette, convert such number of equity shares held by it not exceeding fifty crores as it may decide into redeemable preference shares.

(2) The redeemable preference shares referred to in sub-section (1) shall-

(a) carry such fixed rate of dividend as the Central Government may specify at the time of such conversion, and

(b) neither be transferable nor carry any voting rights.

(3) The redeemable preference shares referred to in sub-section (1) shall be redeemed by the Development Bank within three years from the date of such conversion in such instalments and in such manner as the Board may determine.]

CHAPTER 3

MANAGEMENT OF THE DEVELOPMENT BANK

5. Management :-

1 [

(1) The general superintendence, direction and management of the affairs and business of the Development Bank shall vest in a Board of directors which may exercise all powers and do all such acts and things, as may be exercised or done by the Development Bank and are not by this Act expressly directed or required to be done by the Development Bank in general meeting.

(2) The Board may direct that any power exercisable by it under this Act shall also be exercisable in such cases and subject to such conditions, if any, as may be specified by it, by the chairman, managing director or the whole-time director:]

(3) Subject to the provisions of this Act, the Board in discharging its functions shall act on business principles with due regard to public interest.

[(4)x x x x]

1. Omitted by the Industrial Development Bank of India (Amendment) Act (5 of 1995), Section 8 (w.r.e.f. 12-10-94).

6. Constitution of Board :-

(1) The Board shall consist of the following, namely:-

(a) a chairman and a managing director appointed by the Central Government: Provided that the same person may be appointed to function both as chairman and as managing director;

(b) one whole-time director appointed by the Central Government on the recommendation of the Board;

(c) two directors who shall be officials of the Central Government nominated by the Central Government;

(d) three directors from amongst persons having special knowledge of, and professional experience in, science, technology, economics, industry, banking, industrial co-operatives, law, industrial finance, investment, accountancy, marketing or any other matter, the special knowledge of, and professional experience in, which would, in the opinion of the Central Government, be useful to the Development Bank, nominated by the Central Government; and

(e) such number of directors elected, in the prescribed manner, by shareholders other than the Central Government, whose names are entered on the register of share holders of the Development Bank ninety days before the date of the meeting in which such election takes place on the following basis, namely:-

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

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

(iii) where the total equity share capital issued to such shareholders is twenty-five per cent or more of the total issued equity capital, four directors: Provided that until the assumption of charge by the elected directors under this clause, the Central Government may at any time nominate such member of directors, not exceeding four, from amongst persons having special knowledge of, and professional experience in, science, technology, economics, industry, banking, industrial co-operatives, law, industrial finance, investment, accountancy, marketing or any other matter, the special knowledge of, and professional experience in, which would, in the opinion of

the Central Government, be useful to the Development Bank for carrying out its functions.]

[(2) The chairman, the managing director and the whole-time director] shall hold office for such term not exceeding five years as the Central Government may specify in this behalf and any person so appointed shall be eligible for re-appointment.

[(2A) Notwithstanding anything contained in sub-section (1) the Central Government shall have the right to terminate the term of office of [the chairman, the managing director or the whole-time director] as the case may be, at any time before the expiry of the term specified under sub-section (2) by giving him notice of not less than three months in writing or three months' salary and allowances in lieu of such notice; and chairman or managing director, as the case may be, shall also have the right to relinquish his office at any time before the expiry of the term specified under sub-section (2) by giving to the Central Government notice of not less than three months in writing.]

(3) [The chairman, the managing director and the whole-time director] shall receive such salary and allowances as may be determined by the Central Government.

[(3A) The Central Government may, at any time, remove [the chairman, the managing director or the whole-time director] as the case may be, from office: Provided that no person shall be removed from his office, under this sub-section, unless he has been given an opportunity of showing cause against his removal.]

(4) A nominated director shall hold office during the pleasure of the authority nominating him.

[(4A) Subject to the provisions of sub-section (4),-

(a) every director nominated under clause (d) of sub-section (1) shall hold office for such term not exceeding three years as the Central Government may specify in this behalf and thereafter until his successor assumes office, and shall be eligible for re-nomination. Provided that no such director shall hold office continuously for a period exceeding six years; and

(b) every director elected under clause (e) of sub-section (1) shall hold office for three years and thereafter until his successor assumes office, and shall be eligible for re-election: Provided that

no such director shall hold office continuously for a period exceeding six years;]

[(4B) The shareholders, other than the Central Government may, after giving to the director a reasonable opportunity of being heard in the manner as may be prescribed, by resolution passed by majority of the votes of such shareholders holding the aggregate not less than one-half of the share capital held by such shareholders, remove any director elected under clause (e) of sub-section (1) and elect another director in his place to fill the vacancy so caused.]

[(5)

(i) A meeting of the Board shall be held at least once every three months and at least four meetings shall be held every year and the meetings may be held at such places as may be prescribed.

(ii) Notice of every meeting of the Board shall be given in writing to every director for the time being in India, and at his usual address in India to every other director.

(5A) Subject to the provisions contained in this Chapter, the Board may meet at such times and places and shall observe such rules of procedure in regard to transaction of its business including the manner of adoption of resolutions as may be prescribed.]

(6) The chairman or, if for any reason he is unable to attend a meeting of the Board, the managing director or, in the event of both the chairman and the managing director being unable to attend a meeting, any other director nominated by the chairman in this behalf and in absence of such nomination any director elected by the directors present from among themselves, shall preside at the meeting.

(7) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the director present and voting, and in the event of an equality of votes, the chairman, or in his absence, the managing director, or in the absence of both the chairman and the managing director, the person presiding, shall have a second or casting vote.

(8) Save as provided in sub-section (7), every director of the Board shall have one vote.]

(6A). Omitted :-

x x x x x]

6B. Disqualifiers of directions :-

(1) A person shall not be eligible for being elected as director under clause (e) of sub-section (1) of section 6 , if he-

(a) has been found to be of unsound mind by a court of competent jurisdiction and the finding is in force;

67

(b) is an undischarged insolvent.

(c) has applied to be adjudicated as an insolvent and his application' is pending;

(d) has been convicted by a court of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence; or

(e) has not paid any call in respect of shares of the Development Bank held by him, whether alone or jointly with others, and six months have elapsed from the last day fixed for the payment of the call.

6C. Vacation of office by director :-

(1) The office of a director shall become vacant if he-

(a) becomes subject to any of the disqualifications mentioned in section 6B ; or

(b) resigns his office by giving notice in writing under his hand and the resignation is accepted; or

(c) absents himself from three consecutive meetings of the Board without obtaining leave of absence from the Board.

(2) Notwithstanding anything in clause (a) of sub-section (1), the disqualifications referred to in that clause shall not take effect-

(a) for thirty days from the date of the adjudication, sentence or order;

(b) where any appeal or petition is preferred within thirty days aforesaid against the adjudication, sentence or conviction resulting in the sentence or order until the expiry of seven days from the date on which such appeal or petition is disposed of; or

(c) where within the seven days aforesaid, any further appeal or petition is preferred in respect of the adjudication, sentence, conviction or order and the appeal or petition, if allowed, would result in the removal of the disqualification until such further appeal or petition is disposed of.]

7. Executive Committee and other Committees :-

1

[(1) The Board shall constitute an Executive Committee consisting of the chairman, the managing director, the whole-time director and such other directors as it may deem fit.]

(2) The Executive Committee shall discharge such functions as may be prescribed or as may be delegated to it by the Board.

(3) The Board may constitute such other committees whether consisting wholly of directors or wholly of other persons or partly of directors and partly of other persons for such purpose or purposes as it may think fit.

(4) The Executive Committee or any other committee constituted under this section shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

1. Substituted by the Industrial Development Bank of India (Amendment) Act (5 of 1995), Section 10 (w.r.e.f. 12-10-94).

8. Fees and allowances of directors and members of committees :-

The directors and the members of a committee shall be paid such fees and allowances as may be prescribed for attending the meetings of the Board or of any committee constituted in pursuance of this Act and for attending to any other work of the Development Bank. ¹ [Provided that no fees shall be payable to the chairman, if he is appointed whole time, or to the managing director or to the whole-time director or to any other director who is an official of the Government.]

1. Substituted by the Industrial Development Bank of India (Amendment) Act (5 of 1995), Section 11 (w.r.e.f. 12-10-94).

CHAPTER 4

BUSINESS OF THE DEVELOPMENT BANK

9. Business of Development Bank :-

(1) ¹[The Development Bank shall function as the principal financial institution for co-ordinating the working of institutions engaged in financing promoting or developing industry and for assisting the development of such institutions in such manner as it may deem appropriated and may] carry on and transact any of the following kinds of business, namely:-

(a) granting loans and advances to-

(i) the Industrial Finance Corporation, any State Financial Corporation or any other financial institution ²[which may be approved by the Board in this behalf], by way of refinance of any loans or advances granted to industrial concerns ²[* * * * *] by such corporation or institution which are repayable ⁴[within a period not exceeding twenty-five years;]

(ii) any scheduled bank or State co-operative bank, by way of refinance of any loans or advances granted to 'industrial concerns ⁵[* * * * *] by such bank which are repayable ⁶[within a period not exceeding fifteen years;]

(iii) any scheduled bank or State co-operative bank or the Industrial Finance Corporation or any State Financial Corporation or any other financial institution which may be notified by the Central Government in this behalf, by way of refinance or advances granted to industrial concerns [including concerns exporting products of industrial concerns] or group of industrial by such bank or institution which are for the purpose of, or in connection with, the export of capital goods commodities or merchandise from India ⁷[or the execution of any turn-key project outside India by any industrial concern as aforesaid or by any person in India, and in any case, are repayable-

(i) within a period not exceeding twelve years in the case of persons outside India, and

(ii) within a period not exceeding fifteen years in other cases.]

(b) subject to such conditions as may be prescribed, accepting, discounting or re- discounting bills of exchange and ⁸[promissory notes made, drawn, accepted or endorsed by industrial concerns or by any person selling capital goods manufactured by one industrial concern to another industrial concern]]

(c) subscribing to or purchasing stocks, shares, bonds or

debentures of the Industrial Finance Corporation, any State Financial Corporation or ⁹[any other financial institution, whether within or outside India] [which may be approved by the Board in this behalf;

10[(ca) granting lines (letters) of credit or loans and advances to the Industrial Finance Corporation, any State Financial Corporation or any, other financial institution **11**[which may be approved by the Board in this behalf] for the purpose of any business of such Corporation or institution;]

(d) granting loans an advances to any industrial concern or subscribing to, or purchasing, or underwriting the issue of stocks, shares, bonds or debentures of any industrial concern: Provided that nothing contained in this clause shall be deemed to preclude the Development Bank from granting loans or advances to, or subscribing to debentures of, an industrial concern **12**[the amounts outstanding thereon may be convertible at the option of the Development Bank] into stocks or shares of that concern within the period the loan advance or debenture is repayable.

13[(da) granting loans and advances-

(i) to any person exporting products of industrial concerns, or

(ii) to any person outside India, in connection with the export of capital goods from India; or

(iii) for the execution of turn-key projects outside India by any industrial concern or by any person in India;]

12[(db) transferring for consideration any instrument relating to loans and advances granted by it to Industrial concerns;]

9[(dc) granting loans and advances to any person for purposes of investment in any industrial concern;]

(e) guaranteeing deferred payments due from any industrial concern;

(f) guaranteeing

(i) loans raised by industrial concerns which are floated in the public market; and

(ii) loans raised by industrial concerns from any scheduled bank or

State co-operative bank or the Industrial Finance Corporation or any State Financial Corporation or any other financial institution [which may be approved by the Board in this behalf];

(g) guaranteeing the obligations of any scheduled bank or State co-operative bank or the Industrial Finance Corporation or any State Financial Corporation or any other financial institution which may be approved by the Board in this behalf], arising out of, or in connection with, underwriting the issue of stocks, shares, bonds or debentures of any industrial concern;

9[(ga) granting, opening, issuing, confirming or endorsing letters of credit and negotiating or collecting bills and other documents drawn thereunder;

(gb) providing consultancy and merchant banking services in or outside India;

(gc) acting as the trustee for the holders of debentures or other securities;

(gd) acquiring, with the approval of the Central Government, the undertaking, including the business, assets and liabilities of any institution the principal object of which is the promotion or development of industry in India, or the grant of financial assistance for such promotion or development;

(h) undertaking research and surveys for evaluating or dealing with marketing or investments and undertaking and carrying on techno-economic studies in connection with the development of industry;

(i) providing technical **9**[legal, marketing] and administrative assistance to any industrial concern or any person for promotion, management or expansion of any industry;

(j) planning, promoting and developing industries to fill up gaps in the industrial structure in India;

18[(k) promoting, forming or conducting or associating in the promotion, formation or conduct of companies, subsidiaries, societies, trusts or such other associations of persons as it may deem fit;]

19[(ka) acting as agent of-

(i) the Central Government or of the Reserve Bank, or

(ii) such other Government or person as the Central Government ²⁰[in consultation with] the Reserve Bank may authorise;

(l) performing functions entrusted to, or required of, the Development Bank by this Act or by any other law for the time being in force;

(m) doing any other kind of business which the Central Government, ²¹ [* * * *] may authorise;

(n) generally doing such other acts and things as may be incidental to, or consequential upon, the exercise of its powers or the discharge of its duties under this Act or any other law for the time being in force including sale or transfer of any of its assets.

(2) The Development Bank may receive in consideration of any of the services mentioned in sub-section (1) such commission, brokerage, interest, remuneration or fees as may be agreed upon.

(3) The Development Bank shall not grant any loan or advance or other financial accommodation on the security of its own bonds or debentures.

1. Substituted for the words "The Development Bank may" by Public Financial Institutions Laws (Amendment) Act, 1975(52 of 1975), Section 11 (16-2-76).

2. Words inserted by Act, 1972 (75 of 1972), Section 3; omitted by Public Financial Institutions Laws (Amendment) Act, 1975 (52 of 1975), Section (16-2-76).

4. Words substituted by Act, 1972 (75 of 1972), Section 3 (not yet enforced),

5. See Footnote (b) supra,

6. Words substituted by Act, 1972 (75 of 1972), Section 3 (not yet enforced).

7. Words substituted Act, 1972 (75 of 1972).

8. Substituted , for words "promissory notes of industrial concerns".

9. Substituted , for words "any other financial institution."

10. Inserted by Industrial Development Bank of India (Amendment) Act (35 of 1986), Section 7 (14-8-86).

11. Substituted for the words "which may be notified by the Central Government in this behalf" by Industrial Development Bank of India (Amendment) Act (5 of 1995), Section 12 (w.r.e.f. 12-10-94).

12. Words substituted Act, 1972 (75 of 1972).

13. Inserted Act, 1972 (75 of 1972).

18. Substituted, Industrial Development Bank of India (Amendment) Act (35 of 1986).

19. Inserted Act, 1972 (75 of 1972).

20. Words substituted by Public Financial Institutions Laws

(Amendment) Act, 1975 (52 of 1975), Section 11 (16-2-76).

21. Omitted Public Financial Institutions Laws(Amendment) Act, 1975 (52 of 1975).

9A. Prohibited business :-

(1) The Development Bank shall not enter into any kind of business with any industrial concern, of which any of the directors of the Development Bank is a proprietor, partner, director, manager, agent, employee or guarantor, or in which one or more directors of the Development Bank together hold substantial interest: Provided that this sub-section shall not apply to any industrial concern if any director of the Development Bank-

(i) is not nominated as a director of the Board of such concern by Government, or a Government company as defined in Section 617 of the Companies Act, 1956 , or by a corporation established by any other law, or the concern by Government, or a Government company as defined in Section 617 of the Companies Act, 1956 , or by a Corporation established by any other law, by reason only of such nomination or election, as the case may be

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

(i) shall not apply to any industrial concern as specified therein if the Development Bank is satisfied that it is necessary in the public interest to enter into business with that concern, and entering into any kind of business with such industrial concern shall be in accordance with and subject to such conditions and limitations as may be prescribed;

(ii) shall not apply to any transaction relating to the business entered into prior to the commencement of the Industrial Development Bank of India (Amendment) Act, 1972, and all such business and any transaction in relation thereto may be implemented or continued as if that Act had not come into force;

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

10. Loans by Central Government :-

The Central Government may, after due appropriation made by Parliament by law in this behalf, advance to the Development Bank-

(a) an interest-free loan of ten crores of rupees repayable-in fifteen

equal annual instalments, commencing on the expiry of a period of fifteen years from the date of the receipt of the loan; and

(b) such further sums of money by way of loan on such terms and conditions as may be agreed upon: Provided that the Central Government may, on a request being made to it by the Development Bank, increase the number of instalments or alter the amount of any instalment or vary the date on which any instalment is payable under clause (a).

11. Borrowings and acceptance of deposits by Development Bank :-

(1) The Development Bank may, for the purpose of carrying out its functions under this Act,-

(a) issue and sell bonds and debentures with or without the guarantee of the Central Government;

(b) borrow money from the Reserve Bank-

(i) repayable on demand or on the expiry of fixed periods not exceeding ninety days from the date on which the money is so borrowed against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India;

(ii) against bills of exchange or promissory notes arising out of bona fide commercial or trade transactions, bearing two or more good signatures and maturing within five years from the date of the borrowing;

(iii) out of the National Industrial Credit (Long-term Operations) Fund established under S.46-C of the Reserve Bank of India Act, 1934, for any of the purposes specified in that section;

(c) borrow money from such other authority, organisation or institution in India as may be generally or specially approved by ¹[the Board];

² [(d) accept deposits on such terms as may be approved by the Board.]

(2) The Central Government may, on a request being made to it by the Development Bank, guarantee the bonds and debentures issued by that bank as to the repayment of principal and the payment of interest at such rate as may be fixed by that

Government.

1. Substituted for the words "the Central Government" by Industrial Development Bank of India (Amendment) Act (5 of 1995), S. 13 (w.r.e.f. 12-10-94).
2. Substituted, Industrial Development Bank of India (Amendment) Act (5 of 1995).

11A. Power to transfer rights :-

The rights and interests of the Development Bank (including any other rights incidental thereto) in relation to any loan or advance granted, or any amount recoverable, by it may be transferred by the Development Bank, either in whole or in part, by the execution or issue of any instrument or by the transfer of any instrument by endorsement, or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred, and the Development Bank may, notwithstanding such transfer act as the trustee for the transferee.]

11B. Power to acquire rights :-

The Development Bank shall have the right to acquire, by transfer or assignment, the rights and interests of any public financial institution as Defined in Section 4A of the Companies Act, 1956 (including any other rights incidental thereto) in relation to any loan or advances granted, or any amount recoverable by such institution, either in whole or in part, by the execution or issue of any instrument or by the transfer of any instrument or in any other manner.]

12. Loans in foreign currency :-

(1) Notwithstanding anything contained in Foreign Exchange Regulation Act, 1947, or in any other enactment for the time being in force relating to foreign exchange, the Development Bank may, for the purpose of granting loans and advances under this Act, borrow, with the previous consent of the Central Government, foreign currency from any bank or financial institution in any foreign country or otherwise.

(2) The Central Government may, where necessary, guarantee any loan taken by the Development Bank under sub-section (1) or any part thereof as to the repayment of principal and the payment of interest and other incidental charges. ¹ [* * *]

1. Sub-sections (3) and (4) omitted by Industrial Development Bank of India (Amendment) Act (5 of 1995), Section 14 (w.r.e.f.

12-10-94).

13. Grants, donations etc., to Development Bank :-

The Development Bank may receive gifts, grants, donations or benefactions from Government or any other source.

CHAPTER 4A
SHARES

13A. Free transferability of shares :-

(1) Save as otherwise provided in sub-section (2), the equity shares of the Development Bank shall be freely transferable.

(2) Nothing contained in sub-section (1) shall entitle the Central Government to transfer any shares held by it in the Development Bank if such transfer will result in reducing the equity shares held by it to less than fifty-one per cent of the issued equity capital of the Development Bank

13B. Register of share-holders :-

(1) The Development Bank shall keep at its head office a register, in one or more books, of the shareholders and shall enter therein the following particulars so far as they may be available, namely :-

(i) the names, addresses and occupations, if any, of the shareholders and a statement of the shares held by each shareholder, distinguishing each share by its denoting number;

(ii) the date on which each person is so entered as a shareholder;

(iii) the date on which any person ceases to be a shareholder; and

(iv) such other particulars as may be prescribed.

1 ["Provided that nothing in this sub-section shall apply to the shares held with a depository.".]

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for the Development Bank to keep the register of the shareholders in computer floppies or diskettes" subject to such safeguards as may be prescribed

. .

(3) Notwithstanding anything contained in Evidence Act, 1872 , a copy of, or extract from, the register of shareholders, certified to be a true copy under the hand of an officer of the Development Bank

authorised in this behalf, shall, in all legal proceedings, be admissible in evidence.

1. Inserted vide THE DEPOSITORIES RELATED LAWS (AMENDMENT) ACT, 1997 (8 Of 1997), Dt. March 19, 1997

13BA. Register of beneficial owners :-

¹ .-The register of beneficial owners maintained by a depository under Section II of the Depositories Act, 1996 (22 of 1996), shall be deemed to be a register of the shareholders for the purposes of this Act.".]

1. Inserted vide THE DEPOSITORIES RELATED LAWS (AMENDMENT) ACT, 1997 (8 Of 1997), Dt. March 19, 1997

13C. Trust not to be entered on the register of shareholders :-

Notwithstanding anything contained in section 13B , no notice of any trust, express, implied or constructive, shall be entered on the register of shareholders or be receivable by the Development Bank.

¹ ["Provided that nothing in this section shall apply to a depository in respect of shares held by it as a registered owner on behalf of a beneficial owner. Explanation.-For the purposes of Section 13-B, Section 13-BA and this section, the expressions "beneficial owner", "depository" and "registered owner" shall have the meanings respectively assigned to them in clauses (a), (e) and (j) of sub-section (1) of Section 2 of the Depositories Act, 1996 (22 of 1996)."]

1. Inserted vide THE DEPOSITORIES RELATED LAWS (AMENDMENT) ACT, 1997 (8 Of 1997), Dt. March 19, 1997

13D. Boards rights to refuse registration of transfer of shares :-

(1) The Board may refuse to register the transfer of any shares in the name of the transferee on any one or more of the following grounds, and- on no other ground, namely:-

(a) the transfer of the shares is in contravention of the provisions of this Act or regulations made thereunder or any other law;

(b) the transfer of the shares, in the opinion of the Board, is prejudicial to the interests of the Development Bank or to the public interest;

(c) the transfer of shares is prohibited by an order of a court,

tribunal or any other authority under any law for the time being in force.

(2) The Board shall, before the expiry of two months from the date on which the instrument of transfer of shares of Development Bank is lodged with it for the purpose of registration of such transfer, not only form, in good faith, its opinion as to whether such registration ought not or ought to be refused on any of the grounds referred to in sub-section (1) but also,-

(a) if it has formed the opinion that such registration ought not be so refused, effect such registration; and

(b) if it has formed the opinion that such registration ought to be refused on any of the grounds mentioned in sub-section (1), intimate the transferor and the transferee by notice in writing.

(3) An appeal against the order of refusal of the Board under sub-section (2) shall lie to the Central Government and the procedure for filing and hearing of such appeal shall be in accordance with the rules made by the Central Government in this behalf.

13E. Shares to be securities under the Indian Trusts Act, 1882 :-

Notwithstanding anything contained in Trusts Act, 1882 , the shares of the Development Bank shall be deemed to be included among the securities enumerated in section 20 of the said Act.

CHAPTER 4B

MEETINGS AND PROCEEDINGS

13F. Annual general meeting :-

(1) The Development bank shall in each year hold, in addition to any other meetings, a general meeting as its annual general meeting and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one annual general meeting and that of the next: Provided that the Development Bank may hold the first annual general meeting within a period of six months from the date on which it allots shares for the first time to public for subscription: Provided further that the Central Government may extend the time within which any annual general meeting shall be held by a period not exceeding three months.

(2) Every annual general meeting shall be called for a time during

business hours, on a day that is not a public holiday, and shall be held either at head office or at some other place within the city or town in which the head office is situate.

13G. Restriction on exercising of voting right :-

Every shareholder of the Development Bank holding equity shares shall have a right to vote in respect of such shares on every resolution and his voting right on a poll shall be in the proportion to his share of the paid-up equity capital of the Development Bank: Provided, however, that no shareholder, other than the Central Government, shall be entitled to exercise voting rights in respect of any equity shares held by him in excess of ten per cent. of the issued equity capital.

13H. Matters to be discussed and procedure in annual general meeting :-

(1) The shareholders present at an annual general meeting shall be entitled to discuss and adopt-

(a) the balance sheet and profit and loss account of the Development Bank made up to the date on which its accounts are closed and balanced;

(b) the report of working of the Development Bank for the period covered by the accounts;

(c) the auditor's report on the balance sheet and accounts;

(d) proposals for declaration of dividend and capitalisation of reserves.

(2) The shareholders present at an annual general meeting may also discuss any other matter to be transacted at such meetings, in accordance with the provisions of this Act.

(3) The matters relating to- (a) the manner in which annual general meeting or other meetings are held under this Act and the procedure to be followed thereat; (b) the manner in which voting rights may be exercised and resolutions may be passed; and (c) the procedure for transaction of business at such meetings and related matters; shall be such as may be prescribed.]

CHAPTER 5

DEVELOPMENT ASSISTANCE FUND

14. Development Assistance Fund :-

With effect from such date¹ as the Central Government may, by notification in the Official Gazette, appoint, the Development Bank shall establish a special fund to be called the Development Assistance Fund.

1. Inserted by Industrial Development Bank of India (Amendment) Act (35 of 1986), 'Section 10 (14-8-86).

15. Credits to Development Assistance Fund :-

To the Development Assistance Fund shall be credited-

(a) all amounts received for the purposes of that fund by way of loans, gifts, grants, donations or benefactions from Government or any other source;

(b) repayment or recoveries in respect of loans, advances or other facilities granted from the fund;

(c) income or profits from investments made from the fund; and

(d) income accruing or arising to the fund, by way of interest or otherwise, on account of the application of the fund in accordance with the provisions of section 16 .

16. Utilisation of Development Assistance Fund :-

(1) Where the Development Bank considers it necessary or desirable so to do, it may, subject to the provisions of sub-sections (2) and (3), disburse or spend from the Development Assistance Fund any amount on account or in consequence of the grant of any loan or advance, or on account or in consequence of entering into any arrangement, under clause (d) or clause (e) or clause (f) or clause (g) of sub-section (1) of section 9 : Provided that before granting any such loan or advance to an industrial concern or entering into any such arrangement with or in relation to an industrial concern, the Development Bank shall obtain the prior approval of the Central Government.

¹ [(1A) Where the Development Bank considers it necessary or desirable so to do, it may, subject to the provisions of sub-sections (2) and (3), disburse or spend from the Development Assistance Fund any amount for one or more of the purposes specified in clause (1) or clause (m) of sub-section (1) of section 9 .].

(2) Before seeking the approval of the Central Government under sub-section (1), the Development Bank shall satisfy itself that

banking or other financial institutions or other agencies are not likely to grant such loan or advance to the industrial concern or to enter into any such arrangement with or in relation to the industrial concern in the ordinary course of business.

(3) The Central Government, before giving its approval, shall satisfy itself that such loan, advance or arrangement is necessary as a matter of priority in the interests of the industrial development of the country.

(4) .For the removal of doubts it is hereby declared that nothing contained in this section shall be deemed to preclude the Development Bank from granting any loan or advance or from entering into any arrangement under clause (d) or clause (e) or clause (f) or clause (g) of sub-section (1) of section 9 without the approval of the Central Government, if no amount in respect thereof is to be disbursed or spent from the Development Assistance Fund.

1. Inserted by Industrial Development Bank of India (Amendment) Act (35 of 1986), 'Section 10 (14-8-86).

17. Debts to Development Assistance Fund :-

(1) To the Development Assistance Fund shall be debited-

(a) such amount as may from time to time be disbursed or spent under sub-sections (1) to (3) of section 16 ;

(b) such amounts as may be required for discharging the liabilities in respect of loans received for the purposes of that fund;

(c) any loss arising on account of investment made out of that fund; and

(d) such expenditure arising out of, or in connection with, the administration and application of the fund as may be determined by the Board.

(2) No amount shall be debited to the Development Assistance Fund except as provided for in sub-section (1).

18. Accounts and audit of Development Assistance Fund :-

(1) The balance-sheet and accounts of the Development Assistance Fund shall be prepared in such form and manner as may be prescribed.

(2) The Board shall cause the books and accounts of the fund to be closed and balanced as on the 30th day of June each year [or such other date, as the Central Government may, by notification in the Official Gazette, appoint]: [Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to the books or accounts in respect of the concerned years.]

(3) The fund shall be audited by one or more auditors appointed by the ¹[Development Bank] under section 23 who shall make a separate report thereon.

(4) The provisions of sub-sections (2), (3), (4) and (6) of section 23 shall, so far as may be, apply in relation to the audit of the Development Assistance Fund.

(5) The Development Bank shall furnish to the Central Government ² [* * * * *] within four months from the date on which the accounts of the fund are closed and balanced, a copy of the balance-sheet and accounts together with a copy of the auditors' report and a report- on the operation of the fund during the relevant year and [the Central Government shall as soon as may be after they are received by it, cause the same to be laid before each house of Parliament.]

1. Inserted by Industrial Development Bank of India (Amendment) Act (35 of 1986), 'Section 10 (14-8-86).

2. Inserted by Banking Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act (66 of 1988), Section 29 (30-12-88).

19. Liquidation of Development Assistance Fund :-

The Development Assistance Fund shall not be closed or wound up save by order of the Central Government and in such manner as that Government may direct.

CHAPTER 6

GENERAL FUND, ACCOUNTS AND AUDIT

20. General Fund :-

All receipts of the Development Bank other than those which are to be credited to the Development Assistance Fund under this Act shall be credited to a fund to be called the General Fund and all

payments by the Development Bank, other than those which are to be debited to the Development Assistance Fund, shall be made out of the General Fund.

21. Preparation of accounts and balance-sheet :-

(1) The balance-sheet and accounts of the Development Bank shall be prepared in such form and manner as may be prescribed.

(2) The Board shall cause the books and accounts of the Development Bank to be closed and balanced as on the 30th day of June each year ¹ [or such other date, as the Central Government may, by notification in the Official Gazette, appoint], [Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books or accounts in respect of the concerned years.]

1. Inserted by Public Financial Institutions Laws (Amendment) Act, 1975 (52 of 1975), Section 16(16-2-76).

22. Disposal of profits accruing to General Fund :-

(1) The Development Bank may establish a reserve fund to which may be transferred such sums as that bank may deem fit out of the annual profits accruing to the General Fund.

¹ [(2) After making provision for bad and doubtful debts, depreciation of assets and for all other matters for which provision is necessary or expedient or which is usually provided for by bankers and for the reserve fund referred to in sub-section (1), and after transferring a part of the profits to such other reserves or funds as may be considered appropriate, the Board may, out of its net profits, declare a dividend.]

1. Inserted by Public Financial Institutions Laws (Amendment) Act, 1975 (52 of 1975), Section 16(16-2-76).

23. Audit :-

¹[(1) The accounts of the Development Bank shall be audited by auditors duly qualified to act as auditors under sub-section (1) of Section 226 of the Companies Act, 1956 who shall be appointed by

the Development Bank in general meeting of the shareholders out of the panel of auditors approved by the Reserve Bank for such term and on such remuneration as the Reserve Bank may fix.]

(2) The auditors shall be supplied with a copy of the annual balance-sheet of the Development Bank and it shall be their duty to examine it together with the accounts and vouchers relating thereto and they shall have a list delivered to them of all books kept by the Development Bank and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the Development Bank.

(3) The auditors may, in relation to such accounts, examine any director or any officer or other employee of the Development Bank and shall be entitled to require from the Board or officers or other employees of the Development Bank such information and explanation as they may think necessary for the performance of their duties.

(4) The auditors shall make a report to the Development Bank upon the annual balance-sheet and accounts examined by them and in every such report they shall state whether in their opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the Development Bank and in case they had called for any explanation or information from the Board or any officer or other employee of the Development Bank whether it has been given and whether it is satisfactory.

(5) The Development Bank shall furnish to the ¹[Central Government] ¹ [within one month from the date on which the annual general meeting is held] a copy of its balance-sheet and accounts together with a copy of the auditors' report and a report of the working of the Development Bank during the relevant year, and [the Central Government shall as soon as may be after they are received by it cause the same to be laid before each house of Parliament].

(6) Without prejudice to anything contained in the preceding subsections, the Central Government may at any time appoint the Comptroller and Auditor-General of India to examine and report upon the accounts of the Development Bank and any expenditure incurred by him in connection with such examination and report shall be payable by the Development Bank to the Comptroller and

Auditor-General of India.

1. Inserted by Public Financial Institutions Laws (Amendment) Act, 1975 (52 of 1975), Section 16(16-2-76).

24. Saving :-

Save as otherwise provided in sub-section (4) of section 18 , nothing contained in this Chapter shall apply to the Development Assistance Fund.

CHAPTER 7

TRANSFER OF BUSINESS OF REFINANCE CORPORATION FOR INDUSTRY

25. Transfer of assets and liabilities of Refinance Corporation for Industry :-

(1) On such date as the Central Government may, by notification in the Official Gazette, appoint, the entire undertaking of the Refinance Corporation for Industry, Limited (hereinafter in this Chapter referred to as "the company") including all business, property, assets and liabilities, rights, interests, privileges and obligations of whatever nature, shall stand transferred to and vest in the Development Bank.

(2) As compensation for the transfer of the undertaking of the company to the Development Bank under sub-section (1), the Development Bank shall pay in cash to the company an amount equal to the total paid-up capital of the company for the purpose of being distributed to the shareholders of the company in proportion to their contribution to such paid-up capital.

(3) All contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the date referred to in sub-section (1) and to which the company is a party or which are in favour of that company shall be of full force and effect against or in favour of the Development Bank, as the case may be, and may be enforced or acted upon as fully and effectually as if instead of the company the Development Bank had been a party thereto or as if they had been issued in favour of the Development Bank.

(4) If on the date referred to in sub-section (1) any suit, appeal or other legal proceeding of whatever nature, is pending by or against the company, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the

Development Bank of the undertaking of the company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Development Bank.

(5) The Central Government may appoint, whether on or after the date referred to in sub-section (1), a suitable person to take over the management of the company for the purpose of winding up its affairs and distributing its assets and simultaneously with such appointment the Central Government may issue directions to be followed by the person in the management of the company for the purpose aforesaid and thereupon-

(a) the provisions of Companies Act, 1956 , or any other law for the time being in force or any instrument having effect by virtue of any such Act or other law, in so far as they are inconsistent with such directions, shall cease to apply to, or in relation to, the company;

(b) all persons in charge of the management, including any person holding office as manager or director, of the company immediately before the issue of such directions, shall be deemed to have vacated their office as such; and

(c) the person appointed to take over the management of the company shall, in accordance with those directions, take all such steps as may be necessary to facilitate the winding up of its affairs and the distribution of its assets.

(6) The Central Government, when satisfied that nothing further requires to be done in order to wind up the affairs of the company may, by order in writing, direct that as from such date as may be specified therein, the company shall stand dissolved and thereupon any such direction shall have effect accordingly.

(7) The provisions of this section shall have effect notwithstanding anything contained in Companies Act, 1956 , or any other law or any instrument having force by virtue of such Act or other law.

CHAPTER 8 MISCELLANEOUS

26. Staff of Development Bank :-

(1) The Development Bank may appoint such number of officers and employees as it considers necessary or desirable for the efficient performance of its functions and determine the terms and

conditions of their appointment and service.

(2) Without prejudice to the provisions of sub-section (1), it shall be lawful for the Development Bank to utilise, and for the Reserve Bank to make available the services of, such staff of the Reserve Bank on such terms and conditions as may be agreed upon between the Development Bank and the Reserve Bank.

1 ["(3) Every member of the staff-

(a) whose services are being, immediately before the appointed day, utilised by the Development Bank under sub-section (2), or

(b) whose services, having been made available to the Development Bank, stand immediately before the appointed day, deputed by that Bank to any other organisation, shall on and from the appointed day, be deemed to be appointed by the Development Bank under sub-section (1) on the same salary, emoluments and other terms and conditions of service to which he was entitled immediately before the appointed day: Provided that every member of the staff aforesaid other than those recruited specifically for utilisation in the Development Bank, may before the expiry of a period of eighteen months from the appointed day, elect to go back to the Reserve Bank by exercising an option in writing to that effect, the option once exercised being final and on the exercise of such option, the Reserve Bank shall, before the expiration of a period of thirty months from the appointed day, take back such member of the staff and on such member being taken back by the Reserve Bank, he shall become a member of the staff of the Reserve Bank and shall cease to be a member of the staff of the Development Bank.

(4) If on the appointed day or at any time thereafter any of the functions of the Reserve Bank is transferred to the Development Bank, it shall be lawful for the Development Bank to appoint, with the previous approval of the Reserve Bank, such of the members of the staff of the Reserve Bank whose services were immediately before the transfer aforesaid, being utilised by the Reserve Bank in connection with any of the said functions, and every member of the staff so appointed shall be released by the Reserve Bank and be deemed to be appointed by the Development Bank under sub-section (1) on the same salary, emoluments and other terms and conditions of service to which he was entitled immediately before the date of his appointment : Provided that every member of the

staff aforesaid may, before the expiry of a period of eighteen months from the appointed day, elect to go back to the Reserve Bank by exercising an option in writing to that effect, the option once exercised being final and on the exercise of such option, the Reserve Bank shall, before the expiration of a period of thirty months from the appointed day, take back such member of the staff and on such member being taken back by the Reserve Bank he shall become a member of the staff of the Reserve Bank and shall cease to be a member of the staff of the Development Bank.

(5) Notwithstanding anything contained elsewhere in this Act or in any other Jaw or in any contract, for the time being in force, for a temporary period, not being a period exceeding eighteen months from the appointed day or the date notified under Section 4A of the Unit Trust of India Act, 1963 , whichever is earlier, if the Reserve Bank in consultation with the Development Bank or the Unit Trust considers it necessary, in the interest of any of the said institutions to promote any member of the staff of any of the said institutions to a post in either of the other two institutions, it shall be lawful, for the Reserve Bank to transfer on promotion any such member of staff to that other institution and on such transfer each such member of the staff shall be deemed to be a member of the staff of the other institution to which he is so transferred and shall be entitled to the same salary, emoluments and other conditions of service to which he was entitled immediately before the date of such transfer, including benefits if any, arising directly out of such promotion: Provided that every member of the staff aforesaid may, before the expiry of a period of eighteen months from the appointed day or the date notified under Section 4A of the Unit Trust of India Act, 1963 , whichever is earlier, elect to go back to the institution from which he was so transferred by exercising an option in writing to that effect, the option once exercised being final, and on the exercise of such option, that institution shall, before the expiration of a period of thirty months from the appointed day or the date notified under Section 4A of the Unit Trust of India Act, 1963 , whichever is earlier, take back such member of the staff and on such member being taken by that institution, he shall become a member of its staff and shall cease to be a member of the staff of the institution to which he was earlier transferred.

(6) Notwithstanding anything contained in any other law or in any agreement, for the time being in force, no member of the staff shall

be entitled to claim any compensation for, or in relation to any matter concerning, his transfer, appointment, or as the case may be, return, under sub-sections (3) to (5) and no claim in respect thereof shall be entertained by any court, tribunal or other authority.]

1. Inserted by Public Financial Institutions Laws (Amendment) Act, 1975(52 of 1975), Section 19(16-2-76).

27. Delegation of powers :-

The Board may, by general or special order, delegate to any committee of directors constituted under section 7 or to any director or to any officer or other employee of the Development Bank, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and duties under this Act as it may deem necessary.

28. Returns :-

The Development Bank shall furnish, from time to time, to the Central Government and the Reserve Bank such returns as the Central Government or, as the case may be, the Reserve Bank, may require.

29. Obligation as to fidelity and secrecy :-

(1) The Development Bank shall not, except as otherwise required by this Act or any other law, divulge any information relating to, or to the affairs of, its constituents except in circumstances in which it is, in accordance with the law or practice and usage customary among bankers, necessary or appropriate for the Development Bank to divulge such information.

1 [(1 A) The Development Bank may, for the purpose of the efficient discharge of its functions under this Act, collect from or furnish to the Central Government, the State Bank, any subsidiary bank, nationalised bank or other scheduled bank, State Co-operative Bank, State Financial Corporation or such other financial institution, as may be notified by the Central Government in this behalf, credit information or other information as it may consider useful for the purpose, in such manner and at such times, as it may think fit.

(2) Every director, member of a committee, auditor or officer or other employee of the Development Bank or of the Reserve Bank, whose services are utilised by the Development Bank under the

provisions of this Act, shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule to this Act.

1. Inserted by Public Financial Institutions Laws (Amendment) Act, 1975(52 of 1975), Section 19(16-2-76).

30. Defects in appointments not to invalidate acts, etc :-

(1) No act or proceedings of the Board or of any committee of the Development Bank shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board or the committee, as the case may be.

(2) No act done by any person acting in good faith as a director shall be deemed to be invalid merely on the ground that he was disqualified to be a director or that there was any other defect in his appointment.

30A. Arrangement with Development Bank on appointment of directors to prevail :-

(1) Where any arrangement entered into by the Development Bank with an industrial concern provides for the appointment by the Development Bank of one or more Directors of such industrial concern, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in Companies Act, 1956 , or any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the industrial concern, and any provision regarding share qualification, age-limit, number of directorships, removal from the office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the Development Bank in pursuance of the arrangement as aforesaid.

(2) Any director appointed as aforesaid shall-

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

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

thereto;

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

31. Indemnity of directors :-

(1) Every director shall be indemnified by the Development Bank against all losses and expenses incurred by him in, or in relation to, the discharge of his duties, except such as are caused by his own wilful act or default.

(2) A director shall not be responsible for any other director or for any officer or other employee of the Development Bank or for any loss or expenses resulting to the Development Bank from the insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of the Development Bank or the insolvency or wrongful act of any debtor or any other person under obligation to the Development Bank or anything done in good faith in the execution of the duties of his office or in relation thereto.

32. Protection of action taken under this Act :-

No suit or other legal proceeding shall lie against the Development Bank or any director or any officer or other employee of the Development Bank or any other person authorised by the Development Bank to discharge any functions under this Act for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any other law or provision having the force of law.

32A. Nomination in respect of deposits, bonds, etc :-

(1) Notwithstanding anything contained in any other law for the time being in force, where a nomination in respect of any deposits, bonds or other securities is made in the prescribed manner, the amount due on such deposits, bonds or securities shall on the death of the depositor or holder thereof, vest in and be payable to, the nominee subject to any right, title or interest of any other person to such deposits, bonds or securities.

(2) Any payment by the Development Bank in accordance with the provisions of sub-section (1) shall constitute a full discharge to the Development Bank of its liability in respect of such deposits, bonds

or securities.]

33. Act 18 of 1891 to apply in relation to Development Bank

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The Bankers' Books Evidence Act 1891 , shall apply in relation to the Development Bank as if it were a bank as defined in section 2 of that Act.

34. Act 10 of 1949 not to apply to Development Bank :-

Nothing contained in Banking Regulation Act, 1949, except section 34-A thereof, shall apply to the Development Bank.]

35. Act 43 of 1961 and Act 14 of 1963 not to apply to Development Bank :-

]

36. Liquidation of Development Bank :-

No provision of law relating to the winding up of companies or corporations shall apply to the Development Bank and the Development Bank shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.

37. Power to make regulations :-

(1) The Board [, with the previous approval of the Central Government may, by notification in the official Gazette,] make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for-

(a) the times and places of the meetings of the Board or of any committee constituted under this Act and the procedure to be followed, at such meetings including the quorum necessary for the transaction of business [and the manner of adoption of resolutions];

(b) the [* * * .*] functions of the Executive Committee;

(c) the fees and allowances that may be paid to the directors and the members of a committee;

(d) the conditions which the Development Bank may impose in granting loans or advances or entering into any other arrangements;

[(da) entering into business with industrial concerns specified in sub-section (1) of section 9A and the conditions and limitations in regard thereto;]

[(db) the manner in which and the conditions subject to which shares may be held and transferred;

(dc) matters relating to the rights of shareholders;

(dd) the maintenance of share registers and the particulars to be entered therein;

(de) the safeguards to be observed in the maintenance of register of shareholders on computer floppies or diskettes;

(df) the inspection and closure of the registers and all other matters connected therewith;

(dg) the holding and conduct of elections of directors under this Act and the determination of disputes regarding the qualification of directors;

(dh) the manner in which general meetings shall be convened, the procedure to be followed thereat, the manner in which voting rights may be exercised, resolutions passed and business transacted in such meetings and other matters relating to meetings;

(di) the manner in which notices may be served on shareholders or other persons;

(dj) the manner in which nomination may be made in terms of section 32A ;]

(e) the conditions on which the Development Bank may accept, discount or rediscount bills of exchange or promissory notes;

(f) the investment (whether by way of deposit in banks or otherwise) of the amounts in the Development Assistance Fund or the General Fund which are not for the time being required for the transaction of business;

(g) the form and manner in which the balance-sheets and the accounts of the Development Assistance Fund and the Development Bank shall be prepared;

(h) the forms of returns and statements required under this Act;

(i) the duties and conduct, salaries, allowances and conditions of

service of officers and other employees of the Development Bank;

(J) the establishment and maintenance of provident or other benefit funds for officers and other employees of the Development Bank;

(k) generally, the efficient conduct of the affairs of the Development Bank; and

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

(3) Any regulation which may be made by the Board under this Act may be made by the Reserve Bank within three months of the establishment of the Development Bank; and any regulation so made may be altered and rescinded by the Board in the exercise of its powers under this Act.

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

38. Amendment of certain enactments :-

The enactments specified in Parts I to IV of the Second Schedule to this Act shall be amended in the manner directed in the first column thereof and such amendments shall take effect on the dates specified in the second column of that Schedule.

39. Power to remove difficulty :-

"If any difficulty arises in giving effect to the provisions of this Act, as amended by the Public Financial Institutions Laws (Amendment) Act, 1975, the Central Government may, by order, do anything, not inconsistent with such provisions, for the purpose of removing the difficulty : Provided that no such order shall be made after the expiration of three years from the date of commencement of the said Amendment Act."]

