

INTERNATIONAL MONETARY FUND AND BANK ACT, 1945

47 of 1945

[24th December, 1945]

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Amending Act, 25 of 1959.- "The International Monetary Fund and the International Bank for Reconstruction and Development were brought into existence through an International Agreement concluded at the U.N. Monetary and Financial Conference held in December, 1945. and India became one of the original members of these institutions by signing the respective Articles of Agreements. An Ordinance called the "International Monetary Fund and Bank Ordinance, 1945", was promulgated in December, 1945, to implement the Agreements under which these two institutions were established. This Ordinance is still in force. Section 2(l)(a) of the Ordinance requires the Central Government to pay out of Central revenues such sums as may from time to time be required for the purpose of paying India's original quota in the International Monetary Fund and its initial subscription to the capital stock of the International Bank. The section also requires the Central Government to make subscription towards an increase in the quota in the International Monetary Fund. The Ordinance, however, contains no provision empowering the Central Government to subscribe towards additional shares in respect of an increase in the authorised capital stock of the Bank. The Board of Governors of the International Bank has recently decided on an increase in the authorised capital stock of the International Bank and a general 100 per cent. increase in the subscriptions of all member countries. Since the Ordinance does not authorise payment in respect of any increase in our subscription on account of an increase in the authorised capital stock of the Bank, it has become necessary to amend the Ordinance and provide for such authority. Clause 4(ii) of the Bill seeks to achieve this purpose. Opportunity has also been taken to convert the Ordinance into an Act". -Gazette of India, 1959, Extra., Pt. II, S. 2, p. 587

Amending Act, 67 of 1982.-The Articles of Agreement of the International Monetary Fund (IMF) were adopted at the U.N. Monetary and Financial Conference, Bretton Woods on July 22, 1944. It entered into force on December 27, 1945. India is one of the original members of the institution. An ordinance called "The International Monetary Fund and Bank Ordinance, 1945" was promulgated in December, 1945 to implement the agreements under which the institution was established. The ordinance was later converted into the International Monetary Fund and Bank Act, 1945.

2. The Articles of Agreement of IMF were first amended in 1969, when the Special Drawing Rights Scheme was introduced in order to supplement the reserves of member-countries. India participated in the Scheme

which came into operation from 28th July, 1969, by accepting the necessary modifications in the original Articles of the Agreement of the Fund. 3. The Board of Governors of IMF in Resolution No. 31-A adopted on April 30, 1970 modifications resulting in second set of amendments to the Fund Articles of Agreement. The main objectives of these amendments, which came into force on 1st April, 1978, are, greater flexibility in exchange rate arrangements; reduction in the role of gold and enlargement of role of Special Drawing Rights; simplification and modernisation of the Fund, financial operations and transactions: improvement in the organisational and administrative aspects of the Fund, etc. The amended Fund Agreement now contains 31 Articles and I I Schedules A to K as against 32 Articles and 9 Schedules- A to I in the old Agreement. Nomenclatures of certain Articles have also undergone change to provide for amendments introduced in the Fund Agreement and number of clause in certain Articles have also either been increased or decreased. 4. The existing provisions in the International Monetary Fund Act, 1945, which is an enabling Act of the Government to implement the provisions of the Fund's Agreement, will need amendment to provide for the aforesaid amendments in the Fund's Agreement. Hence it is proposed to amend the Act to incorporate in it reference to the new or revised Articles and Schedules as also the changes in nomenclatures brought about in the amended Fund Agreement. 5. The present opportunity is being availed of to omit the reference in S.4 of the Act to the Indian Income tax Act, 1922 and to amend section 7 of the Act to bring the rule laying provision into conformity with the latest formula. 6. The Bill seeks to achieve the above objects.-Gaz. of India, 20-7-1982, Pt. II, S. 2, Ext., p. 10.

1. Short title, extent and commencement :-

To enable the Bank to fulfil the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Bank in the territories of each member.

2 \ Payments to International Fund and Bank

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(1) ¹[There shall be paid after due appropriation made by Parliament by law in this behalf out of the Consolidated Fund of India] all such sums as may from time to time be required for the purpose of paying-

(a) the subscriptions payable by the Central Government,²[to the International Bank under paragraphs (a) and (c)] of S. 3³[* * *] of Article III of the Fund Agreement, and to the International Bank under paragraph (a) of section 3 of Article II of the Bank Agreement;

(b) any sums payable by the Central Government to the International Fund under⁴[section 11 of Article V) of the Fund Agreement, and to the International Bank under section 9 of Article II of the Bank Agreement;

(c) any charges payable by the Central Government to the International Fund under section 8 of⁵[Article XX]⁶[or under section 2 , section 3 or section 5 ,] of the Fund Agreement;

(d) any sums required for implementing the guarantee of the Central Government referred to in section 3 of Article XIII of the Fund Agreement;⁷[(dd) any assessments required to be paid by the Central Government to the International Fund under section 4 or section 5 of⁵[Article XX] of the Fund Agreement;]

(e) any compensation required to be paid by the Central Government to the International Fund or to any member thereof under⁹[Schedule I, Schedule J, or Schedule K] to the Fund Agreement.

(2) The Central Government may, if it thinks fit so to do create and issue to the International Fund or International Bank, in such form as it thinks fit, any such non-interest-bearing and non-negotiable notes or other obligations as are provided for by¹⁰ [section 4] of Article III of the Fund Agreement and section 12 of Article V of the Bank Agreement.

1. Substituted for "There shall be paid out of the Consolidated Fund of India" by the International Monetary Fund and Bank (Amendment) Act. 1969 (41 of 1969), section 2.

2. Substituted for the words "to the International Fund under paragraph (a)" by Act 25 of 1959, section 4 (28-8-1959).

3. Omitted by Act 67 of 1982, S. 2(l)(a) (15-1-1983).

4. Substituted by Act 67 of 1982 S.2(1)(b).

5. Substituted for the word and figures "Article XXVI" Act 41 of 1969. S. 2(l)(c)(d).

6. Inserted by Act 41 of 1969, S. 2.

7. Inserted by Act 41 of 1969, S. 2.

9. Words "Schedule D or Schedule E" substituted by Act, 67 of 1982, S. 2(l)(e) (15-1-1983).

10. Substituted for 'Section 5' by Act, 67 of 1982, by S. 2(2).

3. Reserve Bank to be depository for International Fund and Bank :-

Actions may be brought against the Bank only in a Court of competent jurisdiction in the territories of a member in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank shall, wheresoever located and by whomsoever held be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

4 \ Power to call for information

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(1) Where, under ¹[paragraph (b) of section 3 of Article IV] or section 5 of Article VIII of the Fund Agreement, the International Fund requires the Central Government to furnish it with any information, the Central Government, or if generally or specially authorised by the Central Government in this behalf, the Reserve Bank, may by order in writing require any person to furnish to such officer or other person as may be specified in the order such detailed information as the Central Government or the Reserve Bank as the case may be, may determine to be essential for the purpose of complying with the request of the International Fund; and any person so required shall be bound to furnish such information.

(2) Every officer or person to whom any information is required to be furnished under this section shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 .

(3) No information obtained under this section shall be furnished to the International Fund in such detail as to disclose the affairs of any person, ² [* * * * *].

(4) A determination of the Central Government or the Reserve Bank under sub- section (1) as to the extent of detail in which information is to be furnished shall be final, and in any prosecution under section 176 or Section 177 of the Indian Penal Code, 1860 in respect of any information required to be furnished under this

section, it shall not be a defence to assert that the information was required to be furnished in greater detail than was essential for the purpose of complying with the request of the International Fund.

(5) No prosecution for an offence in respect of any information required to be furnished under this section shall be instituted except with the previous section of the Central Government.

1. Inserted by Act 67 of 1982, S. 3(1) (15-1-1983).
2. Omitted by Act, 67 of 1982 by S. 3(2) (15-1-1983).

5. Certain provisions of Agreements to have force of law :-

The archives of the Bank shall be inviolable.

6 \Amendment of section 17, Act II of 1934

- [Repealed by the Repealing and Amending Act, 1952 (48 of 1952), section 2 and Schedule 1 (2-8-1952).]

7. Power to make rules :-

The official communications of the Bank shall be accorded by each member the same treatment that it accords to the official communications of other members.

7 \Power to make rules

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[(1)] The Central Government may, by notification in the Official Gazette, make rules for giving effect to the provisions set out in the Schedule and generally for carrying out the purposes of this ²[Act].¹

[(2) Every rule made under this section 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 ⁴[in two or more successive sessions,] and if before the expiry of ⁵ [the session immediately following, the session or the successive sessions aforesaid] both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. Section 7 was renumbered as sub-section (1) thereof by the

International Monetary Fund and Bank (Amendment) Act, 1959 (25 of 1959), S. 5 (28-8-1959).

2. Substituted for "Ordinance" the International Monetary Fund and Bank (Amendment) Act, 1959, S. 2 (28-8-1959).

4. Words "in two successive sessions" substituted by Act 67 of 1982, S. 4 (15-1-1983).

5. Words "the session in which it is so laid or the session immediately following" substituted, by Act 67 of 1982, (15-1-1983).

SCHEDULE 1

PROVISIONS OF AGREEMENTS WHICH SHALL HAVE FORCE OF LAW

1. Purpose of Article :-

To enable the Bank to fulfil the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Bank in the territories of each member.

2. Status of the Fund :-

The Bank shall possess full juridical personality, and, in particular, the capacity (i) to contract: (ii) to acquire and dispose of immovable and movable property: (iii) to institute legal proceedings.

3. Immunity from judicial process :-

Actions may be brought against the Bank only in a Court of competent jurisdiction in the territories of a member in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank shall, wheresoever located and by whomsoever held be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

4. Immunity from other action :-

Property and assets of the Bank, wherever located and by whomsoever held, shall be immune from search, confiscation, expropriation or any other form of seizure by executive or legislative action.

5. Immunity of archives :-

The archives of the Bank shall be inviolable.

6. Freedom of assets from restrictions. :-

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all

property and assets of the Bank shall be free from any restrictions, regulations, controls and moratoria of any nature.

7. Privilege for communications. :-

The official communications of the Bank shall be accorded by each member the same treatment that it accords to the official communications of other members.

8. Immunities and privileges of officers and employees :-

All Governors, executive directors, alternates, officers and employees of the Bank - (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Bank waives this immunity: (ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials and employees of comparable rank of other members; (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

9. Immunities from taxation :-

(a) The Bank, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Bank shall also be immune from liability for the collection or payment of any tax or duty. (b) No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to executive directors, alternates, officials or employees of the Bank who are not local citizens, local subjects, or other local nationals. (c) No taxation of any kind shall be levied on any obligation or security issued by the Bank (including any dividend or interest thereon) by whomsoever held, (i) which discriminates against such obligation or security solely because it is issued by the Bank; or (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank. (d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Bank (including any dividend or interest thereon) by whomsoever held, (i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or (ii) if the sole jurisdictional basis for such taxation is the location of any office or

place of business maintained by the Bank.

1. Purpose of Article :-

To enable the Bank to fulfil the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Bank in the territories of each member.

2. Status of the bank. :-

The Bank shall possess full juridical personality, and, in particular, the capacity (i) to contract: (ii) to acquire and dispose of immovable and movable property: (iii) to institute legal proceedings.

3. Position of the Bank with regard to judicial process. :-

Actions may be brought against the Bank only in a Court of competent jurisdiction in the territories of a member in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank shall, wheresoever located and by whomsoever held be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

4. Immunity of assets from seizure :-

Property and assets of the Bank, wherever located and by whomsoever held, shall be immune from search, confiscation, expropriation or any other form of seizure by executive or legislative action.

5. Immunity of archives :-

The archives of the Bank shall be inviolable.

6. Freedom of assets from restrictions :-

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from any restrictions, regulations, controls and moratoria of any nature.

7. Privilege for communications :-

The official communications of the Bank shall be accorded by each member the same treatment that it accords to the official communications of other members.

8. Immunities and privileges of officers and employees :-

All Governors, executive directors, alternates, officers and employees of the Bank - (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Bank waives this immunity: (ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials and employees of comparable rank of other members; (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

9. Immunities from taxation :-

(a) The Bank, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Bank shall also be immune from liability for the collection or payment of any tax or duty. (b) No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to executive directors, alternates, officials or employees of the Bank who are not local citizens, local subjects, or other local nationals. (c) No taxation of any kind shall be levied on any obligation or security issued by the Bank (including any dividend or interest thereon) by whomsoever held, (i) which discriminates against such obligation or security solely because it is issued by the Bank; or (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank. (d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Bank (including any dividend or interest thereon) by whomsoever held, (i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.