

## **STATE FINANCIAL CORPORATIONS ACT, 1951**

**63 of 1951**

**[31st,October,1951]**

### CONTENTS

#### **CHAPTER 1 :- Preliminary**

1. Short title, extent and commencement
2. Definitions

#### **CHAPTER 2 :-Incorporation of State Financial Corporation, their Capital and Management**

3. Establishment of State Financial Corporations
- 3A. Establishment of Joint Financial Corporations
4. Share capital and shareholders
- 4A. Special class of shares
- 4B. Transfer of share capital to Development Bank
- 4C. Payment of amount
- 4D. Issue of redeemable preference shares
- 4E. Reduction of share capital
- 4F. Restriction on exercising of voting right
- 4G. Proxy voting
- 4H. Transfer of share capital to Small Industries Bank
5. Transfer of shares
6. Conversion of shares guaranteed by State Government
7. Additional capital of Financial Corporation and borrowing powers
8. Deposits with Financial Corporation
9. Management
10. Board of Directors
- 10A. Vacation of office by an elected director
11. Term of office and retirement of directors
12. Disqualifications for being a director
13. Removal of director from office
14. Resignation of office by director and filling up of casual vacancies
15. Chairman of Board
16. Remuneration of directors
17. Managing director
18. Executive Committee
19. Meetings of the Board and Committee
20. Powers of Executive Committee

21. Advisory Committee
22. Offices and agencies
23. Officers and other employees of the Corporation

### **CHAPTER 3 :- Powers and duties of the Board**

24. General duty of the Board
25. Business which Financial Corporation may transit
- 25A. Power to acquire rights
- 25B. Gifts, grants, etc.
26. Limit of accommodation
27. Power to impose conditions for accommodation
28. Prohibited business
29. Right of Financial Corporation incase of default
30. Power to call for repayment before agreed period
31. Special provisions for enforcement of claims by Financial Corporation
32. Procedure of District Judge in respect of applications under section 31
- 32A. Power of Financial Corporation to appoint directors or administ- rators of an industrial concern when management is taken over
- 32B. Effect of notified order under section 32A
- 32C. Powers and duties of directors and administrators
- 32D. No right to compensation for termination of contract of managing agent, managing director, etc
- 32E. Application of Act 1 of 1956
- 32F. Restriction on filing of suits for dissolution, etc., of an industrial concern not being a company when its management is taken over
- 32G. Recovery of amounts due to the Financial Corporation as arrears of Land Revenue

### **CHAPTER 4 :- Investment of Funds, Accounts and Audit**

33. Funds of the Financial Corporation
34. Investment of funds
35. Disposal of profits
- 35A. Special reserve fund
36. General meetings
37. Audit
- 37A. Inspection
38. Returns

### **CHAPTER 5 :- Miscellaneous**

39. Power to give instructions to Financial Corporation on question of policy
40. Declaration of fidelity and secrecy
41. Indemnity of directors
- 41A. Protection of action taken by persons appointed under section

27 or section 32A

41B. Nomination in respect of deposits, bonds, etc

42. Offences

43. Provisions relating to income-tax and super-tax

43A. Delegation of powers

43B. Reports to the Board

44. Act XVIII of 1891 to apply to the books of the Financial Corpora- tion

45. Liquidation of Financial Corporation

46. Power to apply Act to certain financial institutions in existence at commencement of Act

46A. Extension of jurisdiction of the Financial Corporation to other State by agreement

46B. Effect of Act on other laws

47. Powers of State Government to make rules

48. Power of Board to make regulations

48A. Laying of rules and regulations before State Legislature

48B. Power to make rules

49. Power to remove difficulty

**SCHEDULE 1 :- Declaration of Fidelity and Secrecy**

## **STATE FINANCIAL CORPORATIONS ACT, 1951**

**63 of 1951**

**[31st,October,1951]**

STATEMENT OF OBJECTS AND REASONS "In order to provide medium and long-term credit to industrial undertakings, which falls outside the normal activities of commercial banks, a Central Industrial Finance Corporation was set up under the Industrial Finance Corporation Act, 1948. The State Governments wish that similar Corporations should also be set up in the States to supplement to work of the Industrial Finance Corporation. The intention is that the State Corporations will confine their activities to financing medium and small scale industries and will, as far as possible, consider only such cases as are outside the scope of the Industrial Finance Corporation. The State Governments also consider that the State Corporations should be established under a special Statute in order to make it possible to incorporate in the Constitution necessary provisions in regard to majority control by Government guarantee by the State Government in regard to the repayment of principal, and payment of a minimum rate of dividend on the shares, restriction on distribution of profits and special powers for the enforcement of its claims and recovery of dues. Since the incorporation, regulation and winding up of such corporations fall

within the purview of Parliament- vide Entry No. 43 of the Union List- the State Governments have requested the Government of India to enact the necessary enabling legislation, which is sought to be effected by this Bill. 2. The main features of the bill are as follows:- (i) The Bill provides that the State Governments may, by notification in the Official Gazette, establish a Financial Corporation for the State. (ii) The share capital shall be fixed by the State Government but shall not exceed Rs. 2 crores. The issue of the shares to the public will be limited to 25 per cent. of the share capital and the rest will be held by the State Government, the Reserve Bank, scheduled banks, insurance companies, investment trusts, co-operative banks and other financial institutions. (iii) Shares of the Corporation will be guaranteed by the State Government as to the repayment of principal and the payment of a minimum dividend to be prescribed in consultation with the Central Government. (iv) The corporation will be authorised to issue bonds and debentures for amounts which together with the contingent liabilities of the corporation shall not exceed five times the amount of the paid up share capital and the reserve fund of the Corporation. These bonds and debentures will be guaranteed as to the payment of the principal and the payment of interest at such rate as may be fixed by the State Government. (v) The Corporation may accept deposits from the public repayable after not less than five years, subject to the maximum not exceeding the paid-up capital. (vi) The Corporation will be managed by a Board consisting of a majority of Directors nominated by the State Government, the Reserve Bank and the Industrial Finance Corporation of India. (vii) The Corporation will be authorised to make long-term loans to industrial concerns and to guarantee loans raised by industrial concerns which are repayable within a period not exceeding 25 years. The Corporation will be further authorised to underwrite the issue of stocks, shares, bonds or debentures by industrial concerns, subject to the provision that the Corporation will be required to dispose of any shares, etc., acquired by it in fulfilment of its underwriting liability within a period of 7 years. (viii) Until a reserve fund is created equal to the paid-up share capital of the Corporation, and until the State Government has been repaid all amounts paid by them, if any, in fulfilment of the guarantee liability, the rate of dividend shall not exceed the rate guaranteed by the State Government. Under no circumstances shall the dividend exceed 5 per cent. per annum and surplus profits will be payable to the State Government. (ix) The Corporation will have

special privileges in the matter of enforcement of its claims against borrowers."-Gaz. Ind , 19.50, Pt. II-S 2, p. 561.

## **CHAPTER 1** Preliminary

### **1. Short title, extent and commencement :-**

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(1) This Act may be called THE STATE FINANCIAL CORPORATIONS ACT, 1951.

(2) It extends to the whole of India <sup>1</sup>[\* \* \*].

(3) It shall come into force in any State on such date<sup>2</sup> as the Central Government may, by Notification in the Official Gazette, appoint.

1. Substituted for former clause (b) by the Act 56 of 1956 S. 2 (1-10-1956).

2. Inserted by the Act of 77 of 1972 S. 2 (30-12-1972).

### **2. Definitions :-**

-In this Act, unless the context otherwise requires,-

(a) "Board" means the Board of Directors of the Financial Corporation.

(aa) "Development Bank" means the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 .

<sup>1</sup>( b ) "Financial Corporation" means a Financial Corporation established under section 3 and includes a Joint Financial Corporation established under section 3A ;]

<sup>2</sup>[(c) "industrial concern" means any concern engaged or to be engaged in-

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

( ii) mining <sup>3</sup>[or developments of mines;]

(iii) the hotel industry;

( iv ) the transport of passengers or goods by road or by water or by air <sup>3</sup>[or by ropeway or by lift;]

( v ) the generation or distribution of electricity or any other form of power;

( vi ) the maintenance, repair, testing or servicing of machinery of any description, or vehicles or vessels or motor boats or trailers or tractors;

- (vii ) assembling repairing or packing any article with the aid of machinery or power;
- (viii) <sup>3</sup>[the setting up or development of an industrial area or industrial estate;
- (ix) fishing or providing shore facilities fishing or maintenance thereof; <sup>3</sup>[ \* \* ]
- <sup>7</sup>"(x) providing weigh bridge facilities;
- (xi) providing engineering, technical, financial, management, marketing or other services or facilities for industry;
- (xii) providing medical, health or other allied services;
- (xiii) providing software or hardware services relating to information technology, telecommunications or electronics including satellite linkage and audio or visual cable communication;
- (xiv) setting up or development of tourism related facilities including amusement parks, convention centres, restaurants, travel and transport (including those at airports), tourist service agencies and guidance and counselling services to the tourists;
- (xv) construction;
- (xvi) development, maintenance and construction of roads;
- (xvii) providing commercial complex facilities and community centres including conference halls;
- (xviii) floriculture;
- (xix) tissue culture, fish culture, poultry farming, breeding and hatcheries;
- (xx) 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;
- (xxi) research and development of any concept, technology, design, process or product, whether in relation to any of the matters aforesaid, including any activities approved by the Small Industries Bank; or
- (xxii) such other activity as may be approved by the Small Industries Bank,"

Explanation 1.-The expression "processing of goods" includes any art or process for producing preparing or making an article by subjecting any material to a manual, mechanical, chemical, electrical or any otherlike operation.] Explanation 2 -If any doubt arises as to whether a concern is an industrial concern or not, the same shall be referred to the <sup>8</sup>"Small Industries Bank" for its decision and the decision of the <sup>5</sup>"Small Industries Bank" thereon

shall be final].

(d) "prescribed" means prescribed by rules or regulations made under this Act;

**10**"(da) the expression "public sector bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or under Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980)";

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

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

**6** "(fa) "Small Industries Bank" means the Small Industries Development Bank of India established under sub-section (1) of Section 3 of the Small Industries Development Bank of India Act, 1989 (39 of 1989)"

[(fb) "State co-operative bank" shall have the meaning assigned to it in Section 2 of the Reserve Bank of India Act, 1934 ;

(fc) "State Government" in relation to a Union territory, means the Administrator thereof;]

(g) "underwriting" means contract, with or without conditions, to subscribe for stocks, shares, bonds or debentures of an industrial concern with a view to the resale of the whole or any part thereof.

1. Substituted for former clause (b) by the Act 56 of 1956 S. 2 (1-10-1956).

2. Inserted by the Act of 77 of 1972 S. 2 (30-12-1972).

3. Substituted by the Act 43 of 1985 (22-8-1985).

7. Substituted for "(x) providing special or technical knowledge or other services for the promotion of industrial growth; [(xi) providing weigh bridge facilities; (xii ) the research and development of any process or product in relation to any of the matters aforesaid; or (xiii) such other activity as may be approved by the Development Bank;] " by the State Financial Corporations (Amendment) Act, 2000

8. Substituted for "Development Bank" by the State Financial Corporations (Amendment) Act, 2000

10. Inserted by the State Financial Corporations (Amendment) Act,

**CHAPTER 2** Incorporation of State Financial Corporation, their Capital and Management

**3. Establishment of State Financial Corporations :-**

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(1) The State Government may, by notification in the Official Gazette, establish a Financial Corporation for the State under such name as may be specified in the notification.

(2) The Financial Corporation shall be a body corporate by the name notified under sub-section (1), having perpetual succession and a common seal, with power, subject to the provisions of this Act, to <sup>1</sup> [acquire, hold and dispose of] property and shall by the said name sue and be sued.

1. Substituted for the words "acquire and to hold", by Act 56 of 1956 S. 3 (1-10-1956).

**3A. Establishment of Joint Financial Corporations :-**

[-

(1) Notwithstanding anything contained in section 3, two or more States may, after consultation with the <sup>1</sup>"Small Industries Bank" enter into an agreement that there shall be one Financial Corporation for the Group of States participating in the agreement and if the agreement is published in the Official Gazette of each of those States, the Central Government may, by notification in the Official Gazette, establish a Joint Financial Corporation to serve the needs of those under such name as may be specified in the notification.

(2) An inter-State agreement under sub-section (1) among the participating States may-

(a) provide for the fixation of the authorised capital of the Joint Financial Corporation, the number of fully paid-up shares into which it shall be section 4 ;

(b) provide for the sharing of the liability for the guarantee under section 6 or section 7 [or section 8 ];

(c) provide for the number of directors to be nominated to the Board by each participating State Government;

(d) provide for the apportionment among the participating States

of expenditure in connection with the Joint Financial Corporation;

(e) <sup>2</sup> [.....]

(f) determine which of the participating State Governments shall exercise the several functions of the State Government under this Act, and references in this Act to the State Government, in relation to the Joint Financial Corporation, shall, save as otherwise expressly provided be construed accordingly;

(g) provide for consultation among the participating States either generally or with reference to particular matters arising under this Act;

(h) make such incidental and consequential provisions, not inconsistent with this Act, as may be deemed necessary or expedient for giving effect to the agreement.

(3) The Joint Financial Corporation shall be a body corporate by the name notified under sub-section (1), having perpetual succession and a common seal. with power, subject to the provisions of this Act, to acquire, hold and dispose of property and shall, by the said name sue and be sued.

(4) Any reference in this Act to "State" in relation to a Joint Financial Corporation established for two or more States, shall be construed as a reference to each such State.]

1. Substituted for "[Development Bank]" by the State Financial Corporations (Amendment) Act, 2000

2. Omitted by the Act, 43 of 1985 S. 3 (22-8-1985).

#### **4. Share capital and shareholders :-**

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<sup>1</sup>"(1) The authorised capital of the Financial Corporation shall be such sum as may be fixed by the State Government in this behalf, but it shall not be less than fifty lakhs of rupees or exceed five hundred crores of rupees: Provided that the State Government may, on the recommendation of the Small Industries Bank, by notification in the Official Gazette, increase the authorised capital up to one thousand crores of rupees. (2) Subject to the provisions of Section 4-D, the authorised capital shall be divided into such number of fully paid-up shares of the same face value and such number of fully paid-up redeemable preference shares of the same face value and shall be issued to the parties mentioned in clauses (a), (b) and (c) of sub-section (3) and in the case of parties referred to in clause (d) of that sub-section, such shares shall be

issued at such times and in such manner as the State Government may, by notification in the Official Gazette, determine. (3) Subject to the approval of the State Government and the Small Industries Bank, the Board shall determine the number of shares which may, respectively, be distributed among (a) the State Government; (b) the Small Industries Bank; (c) public sector banks, the Life Insurance Corporation of India established under Section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956), other insurance companies owned or controlled by the Central Government, other institutions owned or controlled by the Central Government or the State Government, as the case may be; and (d) parties other than those referred to in clause (a) or clause (b) or clause (c): Provided that the number of shares which may be allocated to parties referred to in clause (d) shall in no case exceed forty-nine per cent of the total number of issued equity shares: Provided further that no increase in the issued equity capital shall be made in such a manner that the parties referred to in clause (a) or clause (b) or clause (c) hold in aggregate, at any time less than fifty-one per cent of the issued equity capital of the Financial Corporation."

(4) Subject to the other provisions contained in this section, the allocation of shares among the parties referred to in clauses (c) and (d) of sub-section (3) and the allotment of such shares shall be made by the Financial Corporation in such manner as may be prescribed.

<sup>2</sup> (5) If any shares allocated to any of the parties referred to in clauses (c) and (d) of sub-section (3) remain unsubscribed, they shall be subscribed for equally by the State Government and the "Small Industries Bank"

.

1. Substituted for "(1) The authorized capital of the Financial Corporation shall be such sum as may be fixed by the State Government in this behalf, but it shall [not] be less than fifty lakhs of rupees or exceed [fifty crores] of rupees. Provided that the Central Government may, on the recommendation of the Development Bank, by notification in the Official Gazette, increase the authorised capital up to one hundred crores of rupees." "(2) The authorised capital shall be divided into such number of fully paid-up shares of the same face value and shall be issued to the parties mentioned in sub-section (3) at such times and in such manner as the State Government may, by notification in the Official Gazette, determine: Provided that no such notification shall be necessary when the shares are to be issued to the parties mentioned in clauses (a) and (ba) of sub-section (3)." (3) The State Government shall, with the approval of the Central

Government, determine the number of shares which may, respectively, be distributed among- (a) the State Government, (b) the Reserve Bank. [(ba) the Development Bank.] (c) scheduled banks, insurance companies [including the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956]] investment trusts, co-operative banks other financial institutions or such other institutions as the Central Government may notify in this behalf in the Official Gazette, and (d) parties other than those referred to in clauses (a), (b) [(ba)] and (c): Provided that the of shares which may be allocated to the parties referred to in clause (d) shall in no case exceed twenty five per cent. of the total number of shares." by the State Financial Corporations (Amendment) Act, 2000

2. Substituted by the Act 43 of 1985 S. 4 (22-8-1985).

#### **4A. Special class of shares :-**

[- <sup>1</sup>[(1) The State Government may, in consultation with the "Small Industries Bank", specify from time to time such part of the unissued capital of the Financial Corporation as shall be allocated for the issue of a special class of shares.]

(2) The special class of shares so allocated under sub-section (1), shall be,-

(a) divided into such number of shares of the same face value as the State Government may, in consultation with the ["Small Industries Bank"] determine;

(b) subscribed by the State Government and the "Small Industries Bank" and they may do so in such proportion as may be agreed upon by and between them and the Financial Corporation and shall make allotment of such shares accordingly.

(3) The funds representing the capital subscribed as aforesaid shall be used only for such purposes, in such manner and for rendering assistance to such class or category of industrial concerns, as the "Small Industries Bank" may, inconsulta- <sup>2</sup> section 48 shall apply thereto.

(4) The rate of dividend declared on the special class of shares in respect of any accounting year of a Financial Corporation shall not exceed the rate of dividend in respect of its other shares.

(5) Nothing contained in sub-sections (2) to (5) of section 4 , section 5 , and sub-sections (1) to (4) of section 6 , shall apply to the special class of shares.]

1. Substituted for sub-section (1) by the Act 52 of 1975, S. 26 (16-2-1976).

2. Omitted for "section 47 or" by the State Financial Corporations (Amendment) Act, 2000

**4B. Transfer of share capital to Development Bank :-**

[.- On such date as the Central Govt. may, by notification in the Official Gazette, specify (hereinafter referred to as the specified date), all the shares of every Financial Corporation subscribed by the Reserve Bank as on the date immediately preceding the specified date, shall, stand transferred to, and vested in the Development Bank.

**4C. Payment of amount :-**

- The Reserve Bank shall be given by the Development Bank, in cash, for the transfer to, and vesting in the Development Bank of the shares of every Financial Corporation which have been subscribed by the Reserve Bank, an amount equal to the face value of the shares of the Financial Corporation so subscribed]

**4D. Issue of redeemable preference shares :-**

.. <sup>1</sup> (1) On and after the commencement of the State Financial Corporations (Amendment) Act, 2000, the Financial Corporation may (a) issue redeemable preference shares on such terms and in such manner as the Board may decide; and (b) convert, such number of equity shares as it may decide into redeemable preference shares, with the prior approval of the State Government and the Small Industries Bank, by a resolution passed in the general meeting of the shareholders: Provided that such conversion shall in no case reduce the equity shares held by the parties referred to in clauses (a), (b) and (c) of subsection (3) of Section 4 to less than fifty-one per cent of the issued equity capital of the Financial Corporation. (2) The redeemable preference shares referred to in sub-section (1) shall (a) carry such fixed rate of dividend as the Financial Corporation may specify at the time of such issue or 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 Financial Corporation in such instalments and in such manner as the Board may determine.

1. Inserted by the State Financial Corporations (Amendment) Act, 2000

#### **4E. Reduction of share capital :-**

**1** (1) The Financial Corporation, with the prior approval of the State Government and the Small Industries Bank, may, by 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; or (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 Financial Corporation.

1. Inserted by the State Financial Corporations (Amendment) Act, 2000

#### **4F. Restriction on exercising of voting right :-**

**1** Every shareholder of the Financial Corporation 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 proportion to his share of the paid-up equity capital of the Financial Corporation: Provided, however, that no shareholder, other than a shareholder referred to in clauses (a), (b) and (c) of sub-section (3) of Section 4, shall be entitled to exercise voting rights in respect of any equity share held by him in excess of ten per cent of the issued equity capital.

1. Inserted by the State Financial Corporations (Amendment) Act, 2000

#### **4G. Proxy voting :-**

**1** In a general meeting referred to in clause (b) of sub-section (1) of Section 4-D and sub-section (1) of Section 4-E, the resolution for conversion or 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 votes, if any, cast against the resolution by shareholders so entitled and voting.

1. Inserted by the State Financial Corporations (Amendment) Act, 2000

#### **4H. Transfer of share capital to Small Industries Bank :-**

**<sup>1</sup>** On such date as the Central Government may, by notification in the Official Gazette, notify (hereinafter referred to as the notified date) all the shares of every Financial Corporation subscribed by the Development Bank and the amount outstanding in respect of loans in lieu of capital provided by the Development Bank as on the date immediately preceding the notified date, shall stand transferred to, and vested in, the Small Industries Bank, such transfer shall be at such rate and be paid in cash or such other manner as may be mutually agreed upon between the Development Bank and the Small Industries Bank."

1. Inserted by the State Financial Corporations (Amendment) Act, 2000

#### **5. Transfer of shares :-**

**<sup>1</sup>** (1) Save as otherwise provided in sub-section (2), the shares of the Financial Corporation shall be freely transferable. (2) Nothing contained in sub-section (1) shall entitle the parties referred to in clauses (a), (b) and (c) of sub-section (3) of Section 4 to transfer any of the shares held by them in the Financial Corporation if such transfer will result in reducing the aggregate value of shares held by them to less than fifty-one per cent of the issued equity capital of the Financial Corporation. (3) 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 the 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 Financial Corporation 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. (4) The Board shall, before the expiry of two months from the date on which the instrument of transfer of shares of the Financial Corporation 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 (3) but also, (a) if it has formed the opinion that such registration ought not to 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 (3), intimate the transferor and the transferee by notice in writing. (5) An appeal against the order of refusal of the Board under sub-section (4) 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.

1. Substituted for "5. Restrictions on transfer of shares.- (1) The shares of the Financial Corporation shall not be transferable except to the State Government, the [Reserve Bank the Development Bank] or any other financial institution [or class of financial institutions] recognised in this behalf by the State Government [or other institutions notified under clause (c) of sub-section 3 of section 4.] Provided that the shares subscribed for by the parties referred to in clause (d) of sub-section (3) of section 4 shall be freely transferable. [(2) .....]" by the State Financial Corporations (Amendment) Act, 2000

## **6. Conversion of shares guaranteed by State Government :-**

<sup>1</sup> (1) On the commencement of the State Financial Corporations (Amendment) Act, 2000, every shareholder shall be given by the Financial Corporation an option to require the Financial Corporation to convert the shares held by him into shares of the same nominal value without the State Government guarantee and issue fresh share certificate or to pay the amount paid in respect of such shares not exceeding the face value of the shares held by him. (2) The option referred to in sub-section (1) shall be given by the Financial Corporation to every existing shareholder before the expiry of three months from the commencement of the State Financial Corporations (Amendment) Act, 2000 and shall be exercised by the shareholder within three months from the date of receipt of such option. (3) The option exercised under sub-section (2) shall be final and shall not be altered or rescinded after it has been exercised. (4) If, a shareholder exercise option for receiving the payment within the stipulated time, the Financial Corporation shall, on surrender of the share certificate held by him, pay him the amount paid in respect of such shares not exceeding the face value

thereof: Provided that if any shareholder fails to exercise the option given to him under sub-section (1), within the time stipulated in sub-section (2), he shall be deemed to have exercised the first option. (5) Nothing contained in sub-section (4) shall be deemed to result in reduction of the share capital and the Financial Corporation may, subject to the provisions of sub-section (3) of Section 4, allot the shares surrendered by any shareholder, to any other person. (6) The Financial Corporation shall keep at its head office a register, in one or more books, of 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: Provided that nothing in this sub-section shall apply to the shares held with a depository under the Depositories Act, 1996 (22 of 1996). (7) Notwithstanding anything contained in sub-section (6), it shall be lawful for the Financial Corporation to keep the register of the shareholders in computer floppies or diskettes, compact disk or any other electronic form subject to such safeguards as may be prescribed. (8) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 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 Financial Corporation authorised in this behalf, shall, in all legal proceedings, be admissible in evidence. (9) The register of beneficial owners maintained by a depository under Section 11 of the Depositories Act, 1996 (22 of 1996) shall be deemed to be a register of shareholders for the purposes of this Act. (10) Notwithstanding anything contained in sub-sections (6), (7) and (8), no notice of any trust, express, implied or constructive, shall be entered on the register of shareholders or be receivable by the Financial Corporation: Provided that nothing in this sub-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 sub-sections (6), (9) and this sub-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). (11) Notwithstanding anything contained in the Indian Trusts Act, 1882 (2 of 1882), the shares of the

Financial Corporation shall be deemed to be included among the securities enumerated in Section 20 of that Act.

1. Substituted for "6. Shares to be guaranteed by the State Government and to be trust or approved securities.- (1)The shares of the Financial Corporation shall be guaranteed by the State Government as to the repayment of principal and the payment of annual dividend at such minimum rate as the State Government may, with the approval of the Central Government, fix by notification published in the Official Gazette at the time of issuing the shares. (2) Notwithstanding anything contained in the Acts hereinafter mentioned in this sub-section, [the shares of the Financial Corporation and such of the bonds and debentures issued by it as are guaranteed by the State Government as to the repayment of the principal and payment of interest any receipts issued by it to such of the deposits as are guaranteed by the State Government as to the repayment of the principal and payment of interest shall] be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882 and also to be approved securities for the purposes of the Insurance Act, 1938 and the Banking [Regulation] Act, 1949" by the State Financial Corporations (Amendment) Act, 2000

## **7. Additional capital of Financial Corporation and borrowing powers :-**

<sup>1</sup> (1) The Financial Corporation may issue and sell bonds and debentures for the purpose of increasing its working capital. (2) The State Government may, on a request being made to it by the Financial Corporation, guarantee the bonds and debentures issued by the Financial Corporation as to the repayment of principal and the payment of interest at such rate as may be fixed by that Government. (3) Notwithstanding anything contained in the Acts hereinafter mentioned in this sub-section, such of the bonds and debentures issued by the Financial Corporation as are guaranteed by the State Government as to the repayment of the principal and payment of interest and receipts issued by it for such of deposits as are guaranteed by the State Government as to the repayment of the principal and payment of interest shall be deemed to be included among the securities enumerated in Section 20 of the Indian Trusts Act, 1882 (2 of 1882) and also to be approved securities for the purpose of the Insurance Act, 1938 (4 of 1938) and the Banking Regulation Act, 1949 (10 of 1949). (4) The Financial Corporation may, for the purposes of carrying out its functions under this Act, borrow money from the Reserve Bank (a)

repayable on demand or on the expiry of a fixed period not exceeding ninety days from the date on which the money is so borrowed against the security of (i) 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, or (ii) such bills of exchange and promissory notes as are eligible for purchase or re-discount by the Reserve Bank or as are fully guaranteed as to the repayment of the principal and payment of interest by a State Government; (b) repayable on the expiry of a fixed period not exceeding eighteen months from the date on which the money is so borrowed, against securities of the Central Government or of any State Government of the maturity, or subject to the previous approval of the State Government, against bonds and debentures issued by the Financial Corporation and maturing within a period not exceeding eighteen months from the date on which the money is so borrowed and every such bond and debenture shall be guaranteed by the State Government: Provided that the amount borrowed by the Financial Corporation under clause (b) shall not at any time exceed in the aggregate twice the paid-up share capital thereof. (5) The Financial Corporation may, for the purpose of carrying out its functions under this Act, borrow money from the State Government, any financial institution, scheduled bank, insurance company or any other person approved by the Board on such terms and conditions as may be agreed upon. (6) The total amount of bonds and debentures issued and outstanding, the amounts borrowed by the Financial Corporation under clause (b) of sub-section (4) and subsection (5) and of the contingent liabilities of the Financial Corporation in the form of guarantees given by it or underwriting agreements entered into by it, shall not exceed ten times the amount of the paid-up share capital and reserve fund of the Financial Corporation: Provided that the Financial Corporation may, with the prior approval of the Small Industries Bank, exceed the aforesaid limit up to thirty times the amount of the paid-up share capital and reserve fund of the Financial Corporation.

1. Substituted for " 7. Additional capital of the Financial Corporation and its borrowing powers.-(1) The Financial Corporation may, in consultation with [the Development Bank] the Reserve Bank, issue and sell bonds and debentures carrying interest for the purpose of increasing its working capital and such bonds and debentures [shall if so required by the Financial Corporation be guaranteed by the State Government] as to the repayment of the principal and the payment, of interest at such rate as the the State Government

may, on the recommendation of the Board abased on the advice of the Reserve Bank]. (2) The Financial Corporation may, for the purposes of carrying out its functions under this Act, borrow money from the Reserve Bank- (a) repayable on demand or on the expiry of a fixed period not exceeding ninety days from the date on which the money is so borrowed against the security. (i) 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, or (ii) such bills of exchange and promissory notes as are eligible for purchase or rediscount by the Reserve Bank or as are fully guaranteed as to the repayment of the principal and payment of interest by a State Government; (b) repayable on the expiry of a fixed period not exceeding eighteen months from the date on which the money is so borrowed against securities of the Central Government or of any State Government of any maturity, [or subject to the previous approval of the State Government against bonds and debentures issued by the Financial Corporation] and maturing within period not exceeding eighteen months from the date on which the money is so borrowed [and every such bond and debenture shall be guaranteed by the State Government]; Provided that the amount borrowed by the Financial Corporation under clause (b) shall not at any time exceed in the aggregate [twice] of the paid-up share capital thereof. "(2A) No money shall be borrowed by the Financial Corporation from the Reserve Bank under sub-section (2), except with the previous approval of the Development Bank.] (3) The Financial Corporation may, for the purposes of carrying out its functions under this Act, borrow money from the State Government in consultaion with [the Development Bank and] the Reserve Bank on such terms and conditions as may be agreed upon. (4) The Financial Corporation may, with the prior approval of the [Development Bank], also borrow money from any financial institution notified in this behalf by the Central Government on such terms and conditions as may be agreed upon. (5) The total amount of bonds and debentures issued and outstanding, the amounts borrowed by the Financial Corporation under clause (b) of sub-section (2), sub-section (3) and sub-section (4) and of the contingent liabillities of the Financial Corporation in the form or guarantees given by it or underwriting agreements entered into by it shall not exceed ten times the amount of the paid-up share capital and the reserve fund of the Financial Corporation.] ["Provided that the Financial Corporation may, with the prior approval of the Development Bank, exceed the aforesaid limit up to thirty times the amount of the paid-up share capital and reserve fund of the Financial Corporation.".] 7A. Power to transfer rights.-The rights and interests of the Financial Corporation (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 Financial Corporation either in whole or in part, by the execution or issue of any instrument or by 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 Financial Corporation may, notwithstanding such transfer, act as the trustee for the transferee.] by the State Financial Corporations (Amendment) Act, 2000

## **8. Deposits with Financial Corporation :-**

**1** (1) The Financial Corporation may accept from the State Government, or with the prior approval of the Reserve Bank, from a local authority or any other person deposits repayable after the expiry of a period which shall not be less than twelve months from the date of the making of the deposit and on such other terms as the Board thinks fit: Provided that the total amount of such deposits shall not exceed twice the paid-up share capital of the Financial Corporation: Provided further that the State Government may permit the Financial Corporation to accept deposits up to a higher limit not exceeding ten times the paid-up share capital of the Financial Corporation. (2) Any deposit accepted under sub-section (1), other than a deposit from the State Government may, if so required by the Financial Corporation, be guaranteed by the State Government as to the repayment of the principal and payment of interest.

1. Substituted for section 8 for "8. Deposits with the Financial Corporation.-(1) The Financial Corporation may accept from the State Government or, with the prior approval of [the State Govt. the Development Bank and the Reserve Bank, a local authority or any other person deposits repayable after the expiry of a period which shall not be less than twelve months from the date of the making of the deposit and on such other terms as it thinks fit; [Provided that the total amount of such deposits shall not exceed twice the paid-up share capital of the Financial Corporation : Provided further that the Central Government may permit the Financial Corporation to accept deposite up to a higher limit not exceeding ten time the paid-up share capital of the Financial Corporation.] ; ["(2) Any deposit accepted under sub-section (1), other than a deposit from the State Government shall, if so required by the Financial Corporation be guaranteed by the State Government as to the repayment of the principal and the payment of interest." ] by the State Financial Corporations (Amendment) Act, 2000

## **9. Management :-**

<sup>1</sup> (1) The general superintendence, direction and management of affairs and business of the Financial Corporation 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 Financial Corporation and are not by this Act expressly directed or required to be done by the Financial Corporation 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.

1. Substituted for section 9 for "9. Management of Financial Corporation.-(1) The general superintendence direction and management of the affairs and business of the Financial Corporation shall vest in the Board of Directors which with the assistance of an Executive Committee and a managing director may exercise all the powers and discharge all the functions which may be exercised or discharged by the Financial Corporation." by the State Financial Corporations (Amendment) Act, 2000

## **10. Board of Directors :-**

<sup>1</sup> The Board of Directors shall consist of the following, namely: (a) a director to be nominated as chairman under sub-section (1) of Section 15; (b) two directors nominated by the State Government of whom one director shall be a person who has special knowledge of or experience in small- scale industries: Provided that in the case of a Joint Financial Corporation, the number of directors shall be such as the State Governments of the participating States may, by agreement among themselves, think fit to nominate each participating State Government nominating not more than two directors: Provided further that in the case of a Joint Financial Corporation, the director, who shall have special knowledge of, or experience in, small-scale industries, shall be nominated by that participating State which, according to the terms of agreement between the participating States, is entitled to make such nomination; (c) two directors nominated by the Small Industries Bank; (d) two directors nominated in the prescribed manner by the parties mentioned in clause (c) of sub-section (3) of Section 4; (e) such number of directors elected, in the prescribed manner, by shareholders, other than those mentioned in clauses (a), (b) and (c) of subsection (3) of Section 4, whose names are entered on the register of shareholders of the Financial Corporation, 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 issued equity share capital held by such shareholders is ten per cent or less of the total issued equity capital, two directors; (ii) where the total amount of issued equity share capital held by such shareholders is more than ten per cent but less than twenty-five per cent. of total issued equity capital, three directors; (iii) where the total amount of issued equity share capital held by such shareholders is twenty-five per cent or more of total issued equity capital, four directors; and (iv) where the total amount of issued equity share capital held by equity shareholders referred to in this clause does not permit election of all the four directors, the Board shall co-opt such number of directors as is required to make up the said number who shall retire in equal number on the assumption of charge by the elected directors in the order of their co-option; (f) a managing director appointed in accordance with the provisions of sub-section (1) of Section 17: Provided that on the first constitution of the Board, the directors referred to in clause (d) shall be nominated by the State Government and directors so nominated shall, for the purpose of this Act, be deemed to be elected directors: Provided further that all the directors of the Board first constituted, other than the managing director, shall retire at the end of the first year."

1. Substituted for "10. Board of Directors.- The Board of Directors shall consist of the following, namely :- (a) [four] directors nominated by the State Government [of whom one director shall be a person who has special knowledge of or experience in small scale industries); [Provided that in the case of a joint Financial Corporation, the number of directors shall be such as the State Governments of the participating States may, by agreement among themselves, think fit to nominate, each participating State Government nominating not more than two directors.] [Provided further that in the case of joint Financial Corporation the director, who shall have special knowledge of or experience in, small scale industries, shall be nominated by that participating State which according to the terms of agreement between the participating States is entitled to make such nomination.] (b) one director nominated by the Reserve Bank; [(c)[two directors] nominated by the Development Bank;] (d) three directors elected in the prescribed manner by the parties referred to in clause (c) of sub-section (3) of section 4 one of whom shall be elected to represent scheduled banks another to represent co-operative banks and the third to represent the remaining [financial institutions, and other institutions.] (e) one director elected in the prescribed manner from among themselves by the parties referred to in clause (d) of sub-

section (3) of section 4 who are shareholders of the Financial Corporation; [(f) a managing director appointed by the State Government in consultation with [and after obtaining the advice of] the [Development Bank] and except in the case of the first appointment also with the Board;] (2) Managing Director of Himachal Pradesh Financial Corporation.- Appointment of- Requirement of consultation with the Reserve Bank is only directory and not mandatory. There is nothing in Section 10 (f) of the Act which precludes an appointment by the State Government of a Government servant on deputation to the post of Managing Director of the Corporation 1978 LabIC (NOC) 38." by the State Financial Corporations (Amendment) Act, 2000

### **10A. Vacation of office by an elected director :-**

[. <sup>1</sup>

1. Substituted for "-10A, The office of a director elected under clause (d) of section 10 shall become vacant if he ceases to hold any office in the scheduled bank, insurance company, investment trust, co-operative bank, financial or other institution in which he held any office at the time of his election as such directors.".] by the State Financial Corporations (Amendment) Act, 2000

### **11. Term of office and retirement of directors :-**

(1) A nominated director shall hold office during the pleasure of the authority nominating him. (2) Subject to the provisions of subsection (1), a nominated director shall hold office for such term not exceeding three years and shall also be eligible for re-nomination: Provided that no such director shall hold office continuously for a period exceeding six years. (3) An elected director other than a director deemed to be elected under the first proviso to clause (d) of Section 10 shall hold office for three years and shall also be eligible for re-election: Provided that no such director shall hold office continuously for a period exceeding six years.

### **12. Disqualifications for being a director :-**

<sup>1</sup> No person shall be a director, if he (a) has been found to be of unsound mind by a court of competent jurisdiction and the finding is in force; or (b) is or at any time has been, adjudicated as insolvent or has suspended payment of his debts or has compounded with his creditors; or (c) has been convicted by a court of any offence involving moral turpitude and sentenced in

respect thereof to imprisonment of not less than six months and a period of five years has not elapsed from the date of expiry of the sentence; or (d) is elected by the persons referred to in clause (d) of sub-section (3) of Section 4 but not registered as shareholder in his own right of unencumbered shares of a nominal value of not less than ten thousand rupees in the Financial Corporation; or (e) has not paid any call in respect of shares of the Financial Corporation 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.

1. Substituted for section 12 for "12. Disqualification for being a director.-No person shall be a director who- (a) except in the case of a managing director, is a salaried official of the Financial Corporation; or (b) is or at any time has been adjudged insolvent or has suspended payment of his debts or has compounded with his creditors; or (c) is found to be a lunatic or becomes of unsound mind; or (d) is or has been convicted of any offence involving moral turpitude." by the State Financial Corporations (Amendment) Act, 2000

### **13. Removal of director from office :-**

- (1)The State Government may remove from office any director who-

(a) is, or has become, subject to any of the disqualification mentioned in section 12 ; or

(b) without excuse sufficient in the opinion of the State Government to exonerate him is absent without leave of the Board from more than three consecutive meetings of the Board.

<sup>1</sup> "(2) The shareholders, other than those mentioned in clauses (a), (b) and (c) of sub-section (3) of Section 4, whose names are entered on the register of shareholders, 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 in the aggregate not less than one-half of the total issued equity share capital held by all such shareholders, remove any director elected under clause (d) of Section 10 and elect in his place another person to fill the vacancy so caused."

1. Inserted by the State Financial Corporations (Amendment) Act, 2000

#### **14. Resignation of office by director and filling up of casual vacancies :-**

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**1** "(1) Any director elected under clause (d) of Section 10 may, by giving notice in writing to the Chairman of the Board, resign from his office and on such resignation being accepted, shall be deemed to have vacated his office."

(2) A casual vacancy in the office of an elected director shall be filled by election and a director so elected shall hold office for the unexpired portion of the term of his predecessor.

(3) No act or proceeding of the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Board.

1. Substituted for "(1) [The managing director may, by giving notice in writing to the State Government and any director elected under clause (d) or clause (e) of section 10 may by giving notice in writing to (he chairman of the Board, resign his office] and, on such resignation being accepted, shall be deemed to have vacated his office. [(1A) If the managing director is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his appointment, the State Government may, after consultation with the Board, appoint another person to act in his place during his absence.]" by the State Financial Corporations (Amendment) Act, 2000

#### **15. Chairman of Board :-**

**1** (1) The Small Industries Bank shall, in consultation with the State Government nominate a director as a Chairman of the Board for such period not exceeding three years and on such terms and conditions as the Small Industries Bank may specify: Provided that the Chairman shall not be a whole-time director unless he is also appointed to function as the managing director: Provided further that the Chairman shall so long as he remains a director be eligible for re-appointment as Chairman. (2) The Chairman shall preside over the meetings of the Board and the general meetings of the Financial Corporation."

1. Substituted for section 15 for "15. Chairman of the Board.- (1) The Chairman of the Board shall be one of the directors, "nominated by the State Government after considering, except in the case of the nomination of the first Chairman, the

recommendation of the Board; Provided that the nomination of the Chairman for any period other than the first period shall be made only after the vacancies in the office of directors occurring by efflux of time in that period have been filled by nomination or election, as the case may be [Provided further that the same person may be appointed to function both as chairman and managing director.] (2) The Chairman shall hold office for two years or until its successor is nominated: Provided that a Chairman shall, so long as he remains a director, eligible for renomination as Chairman." by the State Financial Corporations (Amendment) Act, 2000

#### **16. Remuneration of directors :-**

[-The directors other than the managing director and not being servants of the Government shall be paid such fees as may be prescribed for attending meetings of the Board and, if they are members of the Executive Committee, or any other committee appointed by the Financial Corporation for attending meetings of such committee.]

#### **17. Managing director :-**

-<sup>12</sup>" (1) The managing director shall (a) be appointed, in consultation with the Small Industries Bank, by the State Government; (b) be a whole-time officer of the Financial Corporation; (c) perform such duties as the Board, by regulations, entrust or delegate to him; (d) hold office for such term not exceeding three years as the State Government may specify and shall be eligible for re-appointment; (e) receive such salary and allowances and be subject to other terms and conditions of service as the Board may, with the previous approval of the State Government, determine."

<sup>3</sup>(2) The State Government may, after consulting the Board, remove the managing director from office : Provided that no managing director shall be so removed unless he has been given an opportunity of showing cause against his removal.

<sup>4</sup> "(3) Notwithstanding anything contained in sub-section (1), the State Government, with prior consultation of the Small Industries Bank, shall have the right to terminate the term of office of the managing director at any time, before the expiry of the term specified under clause (d) of sub-section (1) by giving him notice of not less than three months in writing or three months salary and allowances in lieu of such notice and the managing director shall

also have right to relinquish his office at any time before the expiry of term specified under clause (d) of sub-section (1) by giving to the State Government notice of not less than three months in writing."

1. Section 17 was renumbered as sub-section (1) thereof by the Act 56 of 1956 Section 9(1-10-1956).

2. Substituted for "[ (1) ] The managing director shall- (a) be a whole-time officer of the Financial Corporation; [Provided that the Board may, if in its opinion it is necessary in the public interest so to do, permit the managing director to undertake, at the request of the Central Government or the State Government [or the Development Bank] or the Reserve Bank, such part-time honorary work as is not likely to interfere with his duties as managing director;] (b) perform such duties as the Board may, by regulations, entrust or delegate to him; (c) hold office for such term not exceeding four years as the State Government may specify and be eligible for reappointment;] (d) receive such salary and allowances [and be subject to other terms and conditions of service] as the Board, with the previous approval of the State Government may determine. Provided that the first managing director [\* \* \*] shall receive such salary and allowances [and be subject to other terms and conditions of service] as the State Government may fix." by the State Financial Corporations (Amendment) Act, 2000

3. Inserted, section 9 (1-10-1956) by the Act 56 of 1956.

4. Inserted by the State Financial Corporations (Amendment) Act, 2000

## **18. Executive Committee :-**

. . <sup>1</sup> (1) The Board shall constitute an Executive Committee consisting of the chairman and managing director, the whole-time directors and such other directors as it may deem fit: Provided that in the case of a Joint Financial Corporation, if the directors nominated under clause (b) of Section 10 represent different State Governments then, all of them shall be members of the Executive Committee. (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."

1. Substituted for "18. Executive committee.- (1) The Executive Committee shall consist of of the managing director who shall be the Chairman of the Committee, and [the following] other directors, chosen as follows:- (a) [four directors elected by the nominated directors, of whom two shall be from among the directors nominated by the State Government and two] from among the directors nominated by the Reserve Bank and [the Development Bank] : Provided that in the case of a Joint Financial Corporation, in addition to the two directors elected from among the directors nominated by the Reserve Band and [the Development Bank] as many directors as there are participating States shall be elected by the nominated directors, one each from among the directors nominated by each of the participating State Governments; (b) one director elected by the elected directors. (2) A director elected to be a member of the Executive Committee shall hold office as such for the rest of his term of office as director." by the State Financial Corporations (Amendment) Act, 2000

### **19. Meetings of the Board and Committee :-**

-(1) The Board and the Executive Committee shall meet at such times and places and shall observe such rules of procedure in regard to transaction of business at its meetings as may be provided by regulations made under this Act. (2) All questions at a meeting shall be decided by majority of votes of the members present, and in the case of equality of votes, the Chairman or in his absence, any other person presiding shall have a second or casting vote. (3) No director shall vote on any matter in which he is interested.

(3a) and (4) <sup>1</sup>

(5) If for any reason the Chairman of the Board or the Chairman of the Executive Committee is unable to attend any meeting of the Board or, as the case may be, of the Executive Committee,-

(a) in the case of the meeting of the Board, a director, <sup>2</sup> [ ] authorised by the Chairman of the Board in writing shall preside at such meeting, but if the director so authorised is absent or if no such authorisation has been made, the Board may elect a director to preside at that meeting; and

(b) in the case of the meeting of the Executive Committee, a member authorised in writing by the Chairman of that Committee shall preside at that meeting, but if the member so authorised is absent or if no such authorisation has been made the Committee may elect any of its members to preside at that meeting.]

1. Omitted for "[ (3A) If, for any reason, a director nominated under

clause (a) or clause (b) or clause (c) of section 10 is unable to attend any meeting of the Board, the State Government, [the Reserve Bank or [the Development Bank] as the case may be, may depute any other person to attend the said meeting and such person shall, for all purposes of the said meeting, be deemed to be a direction nominated under clause (a) or clause (b) or clause (c), as the case may be, of the said section.] [(4) If for any reason a director nominated under clause (a) or clause (b) or clause (c) of section 10 who is a member of the Executive Committee or any other committee is unable to attend any meeting of the Executive Committee or other committee, the State Government, the Reserve Bank or Development Bank, as the case may be, may depute any other person to attend the said meeting and such person shall, for the purposes of the said meeting be deemed to be a member of such committee." by the State Financial Corporations (Amendment) Act, 2000

2. Omitted by the Act 43 of 1985, S. 12(22.8-1985).

## **20. Powers of Executive Committee :-**

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(1) Subject to such general or special directions as the Board may from time to time give, the Executive Committee may, deal with any matter within the competence of the Board.

(2) The minutes of every meeting of the Executive Committee shall <sup>1</sup> [after confirmation thereof at the next meeting of the Executive Committee be laid] before the Board at the next following meeting of the Board.

1. Substituted by the Act 43 of 1985, S. 13 (22-8-1985).

## **21. Advisory Committee :-**

-The Financial Corporation may appoint <sup>1</sup> [one or more committee or committees consisting wholly of directors or wholly of other persons or partly of directors and partly of other persons] for the purpose of assisting the Financial Corporation in the efficient discharge of its functions and in particular for the purpose of securing that those functions are exercised with due regard to the circumstances and conditions prevailing in, and the requirements of, particular area or industries.

1. Substituted by the Act 43 of 1985. S. 14 (22-8-1985).

## **22. Offices and agencies :-**

[-The Financial Corporation shall establish its head office and other offices and agencies at such places as the State Government may, from time to time, specify and save as aforesaid, the Financial Corporation may establish additional offices or agencies in such other places which the State as it may consider necessary.]

## **23. Officers and other employees of the Corporation :-**

-The Financial Corporation may appoint such officers, advisers and employees as it considers necessary for the efficient of performance of its functions, and determine, by regulations, their conditions of appointment and service and the remuneration payable to them. <sup>1</sup>

1. Omitted for "[Provided that the State Government may in consultation with and after obtaining the advice of the [Development Bank], specify the class or categories of posts in respect of which appointments may be made by the Board on such remuneration and other conditions of service as the Board may determine and no regulations made under this Act shall apply to such posts in respect of matters so determined by the Board.]" by the State Financial Corporations (Amendment) Act, 2000

## **CHAPTER 3 Powers and duties of the Board**

### **24. General duty of the Board :-**

-The Board in discharging its functions under this Act shall act on business principles, due regard being had by it to the interests of industry, commerce and the general public.

### **25. Business which Financial Corporation may transit :-**

. "(1) The Financial Corporation may, subject to the provisions of this Act, carry on and transact any of the following kinds of business, namely: (a) guaranteeing, on such terms and conditions as may be agreed upon, (i) loans raised by industrial concerns which are repayable within a period not exceeding twenty years, and are floated in the public market; (ii) loans raised by industrial concerns from scheduled banks or State co-operative banks or other financial institutions; (b) guaranteeing, on such terms and conditions as may be agreed upon, deferred payments due from any industrial concern in connection with its purchase of capital goods within India; (c) underwriting of the issue of stock, shares,

bonds or debentures by industrial concerns; (d) transferring for consideration any instruments relating to loans and advances granted by it to industrial concerns; (e) acting as agent of the Central Government or the State Government or the Development Bank or the Small Industries Bank or the IFCI Limited formed and registered under the Companies Act, 1956 (1 of 1956), or any other financial institution notified in this behalf by the Central Government in respect of any matter connected with, or arising out of, the grant of loans or advances to an industrial concern, or subscription to debentures of an industrial concern or relating to the business of the Development Bank, Small Industries Bank, IFCI Limited or financial institution; (f) subscribing to, or purchasing of, the stock, shares, bonds or debentures of an industrial concern or any other concern; (g) retaining as part of its assets any stock, shares, bonds or debentures which it may acquire by subscription or in fulfilment of its underwriting liabilities and disposing of the stock, shares, bonds or debentures so acquired; (h) granting loans or advances to, or subscribing to debentures of, an industrial concern, repayable within a period not exceeding twenty years from the date on which they are granted or subscribed to, as the case may be: Provided that the Financial Corporation may, with the prior approval of the Small Industries Bank, exceed the said limit of twenty years up to a further period of ten years: Provided further that nothing contained in this clause shall be deemed to preclude the Financial Corporation from granting loans or advances to, or subscribing to debentures of, and industrial concern to which may be attached an option to convert such debentures or loans into stock or shares of the industrial concern: Provided also that the Financial Corporation may, in the exercise of such option, convert the amounts outstanding on such debentures or loans into stock or shares of the industrial concern if such concern increases its subscribed capital by the issue of further stock or shares in accordance with and subject to, the provisions of Section 81 of the Companies Act, 1956(1 of 1956). Explanation. In this clause, the expression "the amounts outstanding on such debentures or loans" shall mean the principal, interest and other charges payable on such debentures or loans as at the time when the amounts are sought to be converted into stock or shares; (i) accepting or discounting promissory notes and bills of exchange made, drawn, accepted or endorsed by industrial concerns or by any person selling capital goods manufactured by one industrial concern to another industrial concern; (j) undertaking research and surveys for

evaluating or dealing with marketing or investments or undertaking and carrying on technoeconomic studies or other activities in connection with the development of any industry; (k) providing technical and administrative assistance to any industrial concern or any person for the promotion, management or expansion of any industry; (l) planning and assisting in the promotion and development of industries; (m) providing consultancy and merchant banking services; (n) acting as the trustee for the holders of debentures or other securities; (o) leasing, sub-leasing or giving on hire or hire-purchase of industrial plant, equipment, machinery or any other asset; (p) factoring; (q) providing export related credit and services; (r) undertaking money market related activities; (s) setting up of mutual funds and undertaking asset management activity; (t) promoting, forming or conducting or assisting in the promotion, formation, or conduct of companies, subsidiaries, societies, trusts or such other associations of persons as it may deem fit; (u) opening or confirming or endorsing letters of credit and negotiating or collecting bills and other documents drawn thereunder; (v) doing such other business as the Small Industries Bank may authorise, and or generally the doing of such 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. (2) The Financial Corporation may receive, in consideration of any of the services mentioned in sub-section (1), such commission, brokerage, interest, remuneration or fee as may be agreed upon." (3) Subject to the provisions of sub-section (5) of section 7, the aggregate of contingent liabilities of the Financial Corporation under clauses (a), (b) [(c) and (ca)] of sub section (1) shall not at any time exceed twice the paid-up share capital and reserve fund of the Corporation except with the prior approval of the State Government and in consultation with the [Development Bank] but in no case shall exceed thrice the paid-up share capital and reserve fund of the Corporation.] [(4) "Nothing contained in this section shall entitle any Financial Corporation to hold shares in any company, whether as pledgee, mortgagee or absolute owner, of an amount exceeding thirty per cent. of the subscribed share capital) of that company or thirty per cent. of its own paid-up share capital and free reserves, whichever is less. (5) If, on the commencement of the State Financial Corporations (Amendment) Act, 1972 any Financial Corporation is holding shares in excess of the limits specified in sub-section (4), the Corporation shall report the matter forthwith to the Reserve Bank and shall, within such period as the Reserve Bank

may allow, so reduce its share holdings as to conform to the provisions of that sub-section." ]

**25A. Power to acquire rights :-**

[--The Financial Corporation shall have the right to acquire, by transfer or assignment, the rights and interests of any such financial institution as may be notified by the Central Government (including any other rights incidental thereto) in relation to any loan or advance 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 by endorsement or in any other manner: Provided that such loan or advance or amount relates to any business which the Financial Corporation may transact under this Act".]

**25B. Gifts, grants, etc. :-**

. <sup>1</sup> The Financial Corporation may receive gifts, grants, donations or benefactions from Government or any other source."

1. Inserted by the State Financial Corporations (Amendment) Act, 2000

**26. Limit of accommodation :-**

<sup>1</sup> On and from the commencement of the State Financial Corporations (Amendment) Act, 2000, the Financial Corporation shall not enter into any arrangements under clauses (a), (d) or (h) of sub-section (1) of Section 25 with any industrial concern so that the total amount outstanding against that concern in respect of all such arrangements together with the amount of the face value of the shares and stocks of that concern whether subscribed or agreed to be subscribed and the outstanding liabilities on account of underwriting agreements and the deferred payments guarantees is more than (i) five hundred lakhs of rupees in the case of a corporation established by or under any other law or a company as defined in Section 3 of the Companies Act, 1956 (1 of 1956) or a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912) or any other law relating to co-operative societies for the time being in force; and (ii) two hundred lakhs of rupees in any other case: Provided that the Financial Corporation may, with the prior approval of the Small Industries Bank, exceed

the limit under clause (i) or clause (ii) up to four times."

1. Substituted for section 26 for "26. Limit of accommodation.- [(1) [on and from the commencement of the [State Financial Corporations (Amendment) Act, 1985] the Financial Corporation shall not enter into any arrangements under Cl. (a) (ca) of (g) of subs. (1) of ] S. 25 with any industrial concern so that the total amount outstanding against that concern in respect of all such arrangement [together with the amount of the face value of the shares and stock of that concern whether subscribed or agreed to be subscribed and the outstanding liabilities on account of underwriting agreements and the deferred payments guarantees] is more than- (i) [Sixty lakhs of rupees in the case of a corporation established by or under any other law or a company] as defined in section 3 of the Companies Act, 1956 or a co-operative society registered under the Cooperative Societies Act, 1912 or any other law relating to co-operative societies for the time being in force; and (ii)[Thirty lakhs] of rupees in any other case.] (2) (.....) ["Provided that the Financial Corporation may, with the prior approval of the Development Bank, exceed the limit under clause (i) or clause (ii) up to four times.":] by the State Financial Corporations (Amendment) Act, 2000

## **27. Power to impose conditions for accommodation :-**

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(1) In entering into any arrangement under section 25 with an industrial concern, the Financial Corporation may impose such conditions as it may think necessary or expedient for protecting the interests of the Financial Corporation and securing that the accommodation granted by it is put to the best use by the industrial concern.

<sup>1</sup> [(2) Where any arrangement entered into by the Financial Corporation with an industrial concern provides for the appointment by the Financial Corporation 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 any provision contained in any 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 directorship?, removal of office of directors and such like conditions contained in any such law or instrument aforesaid shall not apply to any director appointed by the Financial Corporation in pursuance of the arrangement as aforesaid.

- (3) Any director appointed in pursuance of sub-section (2) shall-
- (a) hold office during the pleasure of the Financial Corporation and may be removed or substituted by any person by order in writing by the Financial Corporation ;
  - (b) not incur any obligation or liability or 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.

1. Substituted by the Act 77 of 1972, S. 17(20-12-1972).

## **28. Prohibited business :-**

-<sup>1</sup>(1) The Financial Corporation shall not- <sup>2</sup>(a) except as provided in section 8 accept deposits :

(b) except as provided in clause <sup>3</sup>(da)] (f) and (g) of sub-section (1) of section 25 , subscribe to the shares or stock of any company.

(c) grant any loan or advance on the security of its own shares.

<sup>4</sup> "(d) grant any form of assistance to any industrial concern in respect of which the aggregate of the paid-up share capital and free reserves exceeds ten crores of rupees or such higher amount not exceeding thirty crores of rupees as the State Government, on the recommendation of the Small Industries Bank, may, by notification in the Official Gazette, specify."

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

(i) is nominated as a director of the Board of such concern by the Government or a Govt. company as defined in S. 617 of the Companies Act, 1956 or by a corporation established by or under any other law : or

(ii) is elected on the Board of such concern by virtue of shares held in the concern by Government or a Government company as defined in S.617 Companies Act, 1956 , or a by a corporation established by or under any other law, by reason only of such

nomination or election as the case may be.

Explanation.-"Substantial interest in relation to an industrial concern means the beneficial interest held by one more of the directors of the Financial Corporation or by any relative [as defined in clause (41) of section 2 of the Companies Act, 1956] of such director whether singly or taken together in the shares of the industrial concern, the aggregate amount paid-up on which either exceeds five lakhs of rupees or five per cent of the paid up share capital of the industrial concern, whichever is less.

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

(i) shall not apply to any transaction relating to the business entered into prior to the commencement of the State Financial Corporations (Amedment) 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;

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

1. Section 28 renumbered as sub-section (1) and sub-sections (2) and (3) inserted, by 77 of 1972, S. 18 (30-12-1972).

2. Substituted by the Act, 6 of 1962 S. 13 (16-4-1962).

3. Inserted by the Act 77 of 1972.

4. Substituted for "(d) grant any form of assistance to any industrial concern in respect of which the aggregate of the paid-up share capital and free reserve exceed [three crore of rupees or such higher amount not exceeding thirty crores of rupees as the Central government may by notification in the official gazette specify]" by the State Financial Corporations (Amendment) Act, 2000

## **29. Right of Financial Corporation incase of default :-**

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(1) Where any indus- trial concern, which is under a liability to the Financial Corporation under an agreement, makes any default in repayment of any loan or advance or any instal- ment thereof <sup>1</sup>[or in meeting its obligations in relation to any guarantee given by the corporation ] or otherwise fails to comply with the terms of its agreement with the Financial Corporation the Financial Corporation shall have the <sup>2</sup>[right to take over the management or possession or both] of the industrial concern], as well as the fright to transfer by way of lease or sale] and realise the property pledged,

mortgaged, hypothecated or assigned to the Financial Corporation.

(2) Any transfer of property made by the Financial Corporation, in exercise of its powers <sup>3</sup>[ \* \* ] under sub-section (1), shall vest in the transferee all rights in or to the property transferred <sup>4</sup>[as if the transfer] had been made by the owner of the property.

(3) The Financial Corporation shall have the same rights and powers with respect to goods manufactured or produced wholly or partly from goods forming part of the security held by it as it had with respect to the original goods.

<sup>5</sup>[(4) <sup>2</sup>[Where any action has been taken against and industrial concern] under the provisions of sub-section (1), all costs, <sup>2</sup>[charges and expenses which in the <sup>8</sup>[as incidental thereto,] shall be recoverable from the industrial concern and the money which is received by it <sup>9</sup>[\* \* \* \* \* ] shall in the absence of any contract to the contrary, be held by it in trust to be applied firstly, in payment of such costs, charges and expenses and, secondly in discharge of the debt due to the Financial Corporation and the residue of the money so received shall be paid to the person entitled thereto.]

(5) <sup>10</sup> [Where the Financial Corporation has taken any action against and industrial concern] under the provisions of sub-section (1), the Financial Corporation shall be deemed to be the owner of such concern for the purposes of suits by or against the concern, and shall sue and sued in the name of the concern].

1. Inserted by the Act 77 of 1972, S 19 (30-12-1972).

2. Substituted for the words right to take over the management of the industrial concern and the words where the management of an industrial concern is taken over by the Financial Corporation or any properly is transferred and realised by it is sub-section (4) .

3. The words of sale and realisation were omitted, by Act 56 of 1956.

4. Substituted for the words as if the sale, by Act 56 of 1956.

5. Substituted for former Sub-Sec. (4), by Act 56 of 1956.

8. Substituted for the words "as incidental to such management or transfer and realisation by Act 56 of 1956."

9. Words from such management or transfer and realisation, omitted, by Act 56 of 1956.

10. Substituted for the words "where the Financial Corporation takes over the management of an industrial concern, by Act 56 of

1956.

**30. Power to call for repayment before agreed period :-**

-Notwithstanding any thing in any agreement to the contrary the Financial Corporation may by notice in writing require any industrial concern to which it has granted any loan or advance to discharge forthwith in full its liabilities to the Financial Corporation.-

(a) if it appears to the Board that false or misleading information in any material particular was given by the industrial concern in its application for the loan or advance ;or

(b) if the industrial concern has failed to comply with the terms of its contract with the Financial Corporation in the matter of the loan or advance; or

(c) if there is reasonable apprehension that the industrial concern is unable to pay its debts or that proceedings for liquidation may be commenced in respect thereof; or

(d) if the property pledged, mortgaged, hypothecated or assigned to the Financial Corporation as security for the loan or advance is not insured and kept insured by the industrial concern to the satisfaction of the Financial Corporation or depreciates in value to such an extent that, in the opinion of the Board, further security to the satisfaction of the Board should be given and such security is not given; or

(e) if, without the permission of the Board, any machinery, plant or other equipment, whether forming part of the security or otherwise, is removed from the premises of the industrial concern without being replaced; or

(f) if for any reason it is necessary to protect the interests of the Financial corporation.

**31. Special provisions for enforcement of claims by Financial Corporation :-**

-

(1) Where an industrial concern, in breach of any agreement, makes any default in repayment of any loan or advance or any instalment thereof <sup>1</sup>[or in meeting its obligations in relation to any guarantee given by the Corporation] or otherwise fails to comply with the terms of its agreement with the Financial Corporation or where the Financial Corporation requires an industrial concern to make immediate repayment of any loan or advance under section

30 and the industrial concern fails to make such repayment<sup>2</sup>[then without prejudice to the provisions of section 29 of this Act and of Section 69 of the Transfer of Property Act, 1882 ] any officer of the Financial Corporation generally or specially authorized by the Board in this behalf, may apply to the District Judge within the limits of whose jurisdiction the industrial concern carries on the whole or a substantial part of its business for one or more of the following reliefs namely:-

(a) for an order for the sale of property pledged, mortgaged, hypothecated or assigned to the<sup>3</sup>Financial Corporation] as security for the loan or advance; or<sup>4</sup> [(aa) for enforcing the liabilities of any surety; or

(b) for transferring the management of the industrial concern to the Finan- cial Corporation; or

(c) for an ad interim injunction restraining the industrial concern from transferring or removing its machinery or plant or equipment from the premises of the industrial concern without the permission of the Board, where such removal is apprehended,

(2) An application under sub-section (1) shall state the nature and extent of the liability of the industrial concern to the Financial Corporation, the ground on which it is made and such other particulars as may be prescribed.

1. Inserted by the Act 77 of 1972, S. 20 (30-12-1972).

2. Insested by the Act 56 of 1956, S 15 (1-10-1956).

3. Substituted for the word "Corporation", by the Act 56 of 1956.

4. Substitution by the Act 43 of 1985, S. 19 (22-8-1985).

### **32. Procedure of District Judge in respect of applications under section 31 :-**

-

(1) When the application is for the releifs" mentioned in clauses (a) and (c) of sub-sec. (1) of section 31 , the District Judge shall pass an ad interim order attaching the security, or so much of the property of the industrial concern as would on being sold realise in his estimate an amount equivalent in value to the outstanding liability of the industrial concern to the Financial Corporation together with the costs of the proceedings taken under section 31 , with or without an ad-interim injunction restraining the industrial

concern from transferring or removing its machinery, plant or equipment.

<sup>1</sup>"(1A) When the application is for the relief mentioned in clause (aa) of sub-section (1) of section 31 , the district judge shall issue a notice calling upon the surety to show cause on a date to be specified in the notice why his liability should not be enforced.";

(2) When the application is for the relief mentioned in clause (b) of sub-section (1) of section 31 , the District Judge shall grant an ad interim injunction restraining the industrial concern from transferring or removing its machinery, plant or equipment and issue a notice calling upon the industrial concern to show cause, on a date to be specified in the notice, why the management of the industrial concern should not be transferring to the Financial Corporation.

(3) Before passing any order under sub-section (1) or sub-section (2), <sup>2</sup>or issuing or notice under sub-section (1A) the District Judge may, if he thinks fit, examine the officer making the application.

<sup>3</sup>[(4) At the same time as he passes an order under sub-section (1), the district judge shall issue to the industrial concern or to the owner of the security attached a notice accompanied by copies of the order, the application and the evidence, if any, recorded by him calling upon it or him to show cause on a date to be specified in the notice why the ad interim order of attachment should not be made absolute or the injunction confirmed.

(4A) If no cause is shown on or before the date specified in the notice under sub-section (1A), the district judge shall forthwith order the enforcement of the liability of the surety.";]

(5) If no cause is shown on or before the date specified in the notice under sub-sections (2) and (4), the District Judge shall forthwith make the ad interim order absolute and direct the sale of the attached property or transfer the management of the industrial concern to the Financial Corporation or confirm the injunction.

(6) If cause is shown, the District Judge shall proceed to investigate the claim of the Financial Corporation in accordance with the provisions contained the Code of Civil Procedure, 1908 , in so far as such provisions may be applied thereto.

(7) After making an investigation under sub-section (6), the District Judge may-

(a) confirm the order of attachment and direct the sale of the attached property;

(b) vary the order of attachment so as to release a portion of the property from attachment and direct the sale of remainder of the

attached property;

(c) release the property from attachment;

(d) confirm or dissolve the injunction;

<sup>4</sup>(da) direct the enforcement of the liability of the surety or reject the claim made in this behalf ; or

(e) transfer the management of the industrial concern to the Financial Corporation or reject the claim made in this behalf: Provided that when making an order under clause (c), <sup>5</sup>[or making an order rejecting the claim to enforce the liability of the surety under clause (da) or making an order reject the claim to transfer the management of the industrial concern to the Financial Corporation under clause (e)] the District Judge may make such further orders as he thinks necessary to protect the interests of the Financial Corporation and may apportion the costs of the proceedings in such manner as he thinks fit : Provided further that unless the Financial Corporation intimates to the District Judge that it will not appeal against any order releasing any property from attachment, <sup>6</sup>[or rejecting the claim to enforce the liability of the surety or rejecting the claim to transfer the industrial concern to the Financial Corporation] such order shall not be given effect to, until the expiry of the period fixed under sub-section (9) within which an appeal may be preferred or, if an appeal is preferred, unless the High Court otherwise directs until the appeal is disposed of.

(8) An order of attachment or sale of property under this section shall be carried into effect as far as practical in the manner provided in the Code of Civil Procedure, 1908 for the attachment or sale of property in execution of a a decree as if the Financial Corporation were the decree-holder.

[(8A) An order under this section transferring the management of an industrial concern to the Financial Corporation shall be carried into effect as far as may be practicable, in the manner provided in the Code of Civil Procedure, 1908 , for the possession of immovable property or the delivery of movable property in execution of a decree, as if the Financial Corporation were the decree holder,]

(9) Any party aggrieved by an order [under sub-section 4A sub-section (5)] or sub-section (7) may, within thirty days from the date of the order, appeal to the High Court, and upon such appeal the High Court may, after hearing the parties, such orders thereon as it thinks proper.

(10) Where proceeding for liquidation in respect of an industrial

concern have commenced before an application is made under subsection (1) of section 31 , nothing in this section shall be construed as giving to the Financial Corporation any preference over the other creditors of the industrial concern not conferred on it by any other law.

<sup>7</sup>[(11) The functions of a district judge under this section shall be exercisable-

(a) in a presidency town, where there is a city civil court having jurisdiction, by a judge of that court and in the absence of such court, by the High Court; and

(b) elsewhere, also by an additional district judge [or by any Judge of the principal court of civil jurisdiction].]

<sup>8</sup> [(12) For the removal of doubts it is hereby declared that any court competent to grant an ad interim injunction under this section shall also have power to appoint a Receiver and to exercise all the other powers incidental thereto.]

1. Inserted by Act 43 of 1985 S 20 (22-8-1985).

2. Inserted by Act 43 of 1985 S 20 (22-8-1985).

3. Substituted by Act 43 of 1983 S. 20 (22-8-1985).

4. Inserted by Act 47 of 1985 S. 20 (22-8-1985).

5. Inserted by Act 47 of 1985 S. 20 (22-8-1985).

6. Inserted by Act 47 of 1985 S. 20 (22-8-1985).

7. Substituted by the Act 6 of 1962, S. (16-4-1962).

8. Inserted by the Act 77 of 1972, S. 21 (30-12-1972).

**32A. Power of Financial Corporation to appoint directors or administrators of an industrial concern when management is taken over :-**

[-

(1) When the management of an industrial concern is taken over by the Financial Corporation, the Financial Corporation may, by order notified in the Official Gazette, appoint as many persons as it thinks fit,-

(a) in any case in which the industrial concern is a company as defined in the Companies Act, 1956 , to be directors of that industrial concern; or

(b) in any other case, to be administrators of that industrial concern.

(2) The power to appoint directors or administrators under this section includes the power to appoint any individual firm or company to be the managing agent or manager of the industrial concern on such terms and conditions as the Financial Corporation may think fit.]

<sup>1</sup> [(3) Nothing in the Companies Act, 1956 or in any other law for the time being in force or any instrument relating to the industrial concern shall in so far as it makes in relation to a director, any provision for the holding of any share qualification, age limit, restriction in the number of directorships, retirement by rotation or removal from office, apply to any director appointed by the Financial Corporation under this section.]

1. Inserted by Act 6 of 1962, S. 16(16-4-1962).

### **32B. Effect of notified order under section 32A :-**

-On the issue of a notified order under section 32A -

(a) in any case in which the industrial concern is a company as defined in the Companies Act, 1956, all persons holding office as directors

(b) any contract of management between the industrial concern and any managing agent or any director or manager thereof holding office as such immediately before the issue of the notified order shall be deemed to have terminated;

(c) in the case of an industrial concern which is a company as defined in the Companies Act, 1956, the managing agent, if any appointed under section 32A shall be deemed to have been duly appointed in pursuance of the said Act and the memorandum and articles of association of the industrial concern and the provisions of the said Act and the memorandum and articles shall, subject to the other provisions contained in this Act, apply accordingly, but no such managing agent shall be removed from office except with the previous consent of the Financial Corporation;

(d) the directors or the administrators appointed under section 32A shall take such steps as may be necessary to take into their custody or under their control all the property, effects and actionable claims to which the industrial concern is, or appears to be, entitled, and all the property and effects of the industrial concern shall be deemed to be in the custody of the directors or administrators as the case

may be, as from the date of the notified order;

(e) the directors appointed under section 32A shall, for all purposes be the directors of the industrial concern duly constituted under the Companies Act, 1956 , and such directors, or as the case may be the administrators appointed under section 32A , shall alone be entitled to exercise all the powers of the directors or as the case maybe, of the persons exercising powers of superintendence, direction and control, of the industrial concern, whether such powers are derived from the said Act or from the memorandum or articles association of the industrial concern or from any other source whatsoever.]

### **32C. Powers and duties of directors and administrators :-**

[-

(1) Subject to the control of the Financial Corporation the directors, or as the case may be, the administrators appointed under section 32A , shall take such steps as may be necessary for the purposes of efficiently managing the business of industrial concern and shall exercise such powers and have such duties as may be prescribed.

(2) Without prejudice to the generality of the powers vested in them under sub-section (1), the directors or as the case may be, the administrators appointed under section 32A , may, with the previous approval of the Financial Corporation make an application to a Court for the purpose of cancelling or varying any contract or agreement entered into at any time before the issue of the notified order under section 32A between the industrial concern and any other person and the Court may, if satisfied after due

### **32D. No right to compensation for termination of contract of managing agent, managing director, etc :-**

[-

(1) Notwithstanding anything to the contrary contained in any contract or in any law for the time being in force, no managing agent, managing director or any other director or a manager or any person in charge of management of an industrial concern shall be entitled to any compensation for the loss of office or for the premature termination under this Act of any contract of management entered into by him with such concern.

(2) Nothing contained in sub-section (1) shall affect the right of any such managing agent or managing director, or any other director or manager or any such person in charge of management

to recover from the industrial concern, moneys recoverable otherwise than by way of such compensation.]

**32E. Application of Act 1 of 1956 :-**

-

(1) Where the management of an industrial concern, being a company as defined in the Companies Act, 1956 , is taken over by the Financial Corporation, then, notwithstanding anything contained in the said Act or in the memorandum or articles of association of such concern-

(a) it shall not be lawful for the shareholders of such concern or any other person to nominate or appoint any person to be a director of the concern;

(b) no resolution passed at any meeting of the shareholders of such concern shall be given effect to unless approved by the Financial Corporation;

(c) no proceeding for the winding up of such concern or for the appointment of receiver in respect thereof shall lie in any Court, except with the consent of the Financial Corporation.

(2) Subject to the provisions contained in sub-section (1) and the other provisions contained in this Act and subject to such exceptions, restrictions and limitations., if any, as the Central Government in consultation with the State Government may, by notification in the Official Gazette, specify in this behalf the Companies Act, 1956 , shall continue to apply to such concern in the same manner as it applied thereto before the issue of the notified order under section 32A ].

**32F. Restriction on filing of suits for dissolution, etc., of an industrial concern not being a company when its management is taken over :-**

[-

(1) Where the management of an industrial concern not being a company as defined in the Companies Act, 1956 , is taken over by the Financial Corporation, no suit or proceedings for dissolution or for partition shall, in so far as it relates to that industrial concern, lie in any Court or before any tribunal or other authority except with the consent of the Financial Corporation.

(2) No proceeding for the appointment of any official assignee or receiver in relation to any industrial concern the management of which has been taken over by the Financial Corporation shall lie in

any Court except with consent of the Financial Corporation.]

**32G. Recovery of amounts due to the Financial Corporation as arrears of Land Revenue :-**

[- Where any amount is due to the Financial Corporation in respect of any accommodation granted by it to any industrial concern, the Financial Corporation or any person authorised by it in writing in this behalf, may, without prejudice to any other mode of recovery, make an application to the State Government for the recovery of the amount due to it. and if the State Government or such authority, as that Government may specify in this behalf, is satisfied, after following such procedure as may be prescribed, that any amount is so due, it may issue a certificate for the amount to the Collector, and the Collector shall proceed to recover that amount in the same manner as an arrear of land revenue"].

**CHAPTER 4** Investment of Funds, Accounts and Audit

**33. Funds of the Financial Corporation :-**

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(1) Every Financial Corporation shall have its own fund, and all receipts of the Financial Corporation shall be carried thereto and all payment by the Corporation shall be made therefrom.

(2) All moneys belonging to the fund shall be deposited in the Reserve Bank <sup>1</sup>[or the State Bank of India or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959] <sup>2</sup>[or in any of the banks specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980] <sup>3</sup>[or any of the banks specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980] <sup>4</sup> [or, in consultation with the Reserve Bank, in a scheduled bank or a State co-operative bank.]

1. Substituted for the words "or with any agency of the Reserve Bank other than a Government treasury" by the Act 6 of 1962, S. 17 (16-4-1962).

2. Inserted by Act 77 of 1972, S. 22 (30-12-1972).

3. Inserted by the Act 43 of 1985, S. 22 (22-8-1985).

4. Substituted for the words "or in a scheduled bank in consultation

with the Reserve Bank by the Act 56 of 1956, S. 18(1-10-1956).

#### **34. Investment of funds :-**

<sup>1</sup> The Financial Corporation may invest its funds in accordance with applicable guidelines and prudential norms as may be prescribed and in such securities as the Board may decide from time to time."

1. Substituted for "34. Investment of funds.- The Financial Corporation may invest its funds in the securities of the Central Government or of any State Government." by the State Financial Corporations (Amendment) Act, 2000

#### **35. Disposal of profits :-**

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(1) The Financial Corporation shall establish a reserve fund.

(2) After making provision for bad and doubtful debts, depreciation of assets and all other matters which are usually provided for by banking companies, the Financial Corporation may out of its net annual profits declare a dividend :

<sup>1</sup> [(3) \* \* \*].

1. Sub-section (3) omitted by the Act 77 of 1972, S 23 (30-12-1972).

#### **35A. Special reserve fund :-**

<sup>1</sup> (1) The Financial Corporation may establish a special reserve fund, to which shall be transferred such portion of the dividends accruing to the State Government, Development Bank and the Small Industries Bank on the shares of the Financial Corporation as may be fixed by agreement between the State Government, Development Bank and the Small Industries Bank: Provided that after the notified date this sub-section shall have effect as if for the words "the State Government, the Development Bank and the Small Industries Bank", the words "the State Government and the Small Industries Bank" have been substituted except as regards all dividends accruing in respect of any completed accounting period prior to the notified date. (2) No shareholder of the Financial Corporation, other than the State Government or the Small Industries Bank, shall have any claim to the special reserve fund. (3) The amount standing to the credit of the special reserve fund

may be utilised by the Financial Corporation for only such purposes as are approved by the State Government and the Small Industries Bank."

1. Substituted for "35A. Special reserve fund.- (1) The Financial Corporation may establish a special reserve fund, to which shall be transferred such portion of the dividends accruing [to the State Government, the Reserve Bank and the Development Bank] on the shares of the Financial Corporation as may be fixed by agreement between the State Government and the Reserve Bank; [(.....)] [Provided further that after the specified date this subsection shall have effect as if for the words "the State Government, the Reserve Bank and the Development Bank", the words the State Government and the Development Bank have been substituted except as regards all dividends accruing in respect of any completed accounting period prior to the specified date.] (2) No shareholder of the Financial Corporation, other than the State Government and the Reserve Bank, shall have any claim to the special reserve fund. (3) The amount standing to the credit of the special reserve fund may be utilised by the Financial Corporation for only such purposes as are approved by the State Government and the Reserve Bank.]" by the State Financial Corporations (Amendment) Act, 2000

### **36. General meetings :-**

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(1) A general meeting (hereinafter referred to as the annual general meeting) shall be held annually at a place in the State where there is an office of the Financial Corporation within <sup>1</sup>[four months] from the date on which the annual accounts of the Financial Corporation are closed, and a general meeting may be convened by the Board at any other time.

<sup>2</sup> "(2) The shareholders present at the annual general meeting shall be entitled to discuss and adopt (a) the balance-sheet and profit and loss account of the Financial Corporation made up to the date on which its accounts are closed and balanced; (b) the report of working of the Financial Corporation for the period covered by the accounts; (c) the auditors report on the balance-sheet and accounts; and (d) proposals for declaration of dividend and capitalisation of reserves. (3) 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."

1. Substituted for the words "two months" by the Act 56 of 1956 and further substituted to four months by the Act 43 of 1985, S. 24 (22-8-1985).
2. Substituted for "(2) The shareholders present at the annual general meeting shall be entitled to discuss the annual accounts the report of the Board on the working of the Financial Corporation throughout the year and the auditors report on the annual balance-sheet and accounts." by the State Financial Corporations (Amendment) Act, 2000

### **37. Audit :-**

**-12** "(1) The accounts of the Financial Corporation shall be audited by auditors duly qualified to act as the auditors under sub-section (1) of Section 226 of the Companies Act, 1956 (1 of 1956), who shall be appointed by the Financial Corporation in general meeting of shareholders out of the panel of auditors approved by the Reserve Bank of India for such terms and on such remuneration as the Reserve Bank may fix."

(2) Every auditor shall be supplied with a copy of the annual balance-sheet of the Financial Corporation, and it shall be his duty to examine it, together with the accounts and vouchers relating thereto, and every auditor shall have a list delivered to him of all books kept by the Financial Corporation and shall at all reasonable times have access to the books, accounts and other documents of the Financial Corporation and may in relation to such accounts examine any director or officer of the Financial Corporation.

(3) The auditors shall make a report to the shareholders upon the annual balance-sheet and accounts, 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 correct view of the state of affairs of the Financial Corporation, and in case they had called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(4) The State Government may, in consultation with the Comptroller and Auditor-General of India, at any time issue directions to the auditors requiring them to report to it upon the adequacy of measures taken by the Financial Corporation for the protection of its shareholders and creditors or upon the sufficiency of their procedure in auditing the affairs of the Financial Corporation and may enlarge or extend the scope of the audit or direct that a

different procedure in audit be adopted, or direct, that any other examination be made by the auditors, if in its opinion public interest so requires.

(5) The Financial Corporation shall send a copy of every report of the auditors to the Comptroller and Auditor-General of India at least one month before it is placed before the shareholders.

(6) Notwithstanding anything contained in the preceding subsections, the Comptroller and Auditor-General of India may, either of his own motion or on a request received in this behalf from a State Government, undertake such audit and at such times as he may consider necessary:

(7) Every audit report under sub-section (6) shall be forwarded to the State Government and the Government shall cause the same to be laid before the Legislature of the State.

1. Inserted by (56 of 1956) S. 21 (1-10-1956).

2. Substituted for "(1) The affairs of the Financial Corporation shall be audited by auditors duly qualified to act as auditors of companies under sub-section (1) of Section 226 of the Companies Act, 1956, who shall be appointed by the State Government in consultation with the Comptroller and Auditor-General of India and the Financial Corporation shall pay to the auditors so appointed such remuneration as the State Government may fix.]" by the State Financial Corporations (Amendment) Act, 2000

### **37A. Inspection :-**

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(1) The "Small Industries Bank" at any time may, with the approval of the Central Government, and on being directed so to do by that Government shall cause an inspection to be made by one or more of its officers of the working of any Financial Corporation and its books and accounts; and the "Small Industries Bank" shall send the report of such inspection to the Central Government and to the State Government and shall supply a copy thereof to the Financial Corporation.

(2) It shall be the duty of every director or every officer of the Financial Corporation to produce to any officer making an inspection under sub-section (1) all such books, accounts and other documents in his custody or power and to furnish him with any statement and information relating to the affairs of the

(3) Notwithstanding anything contained in the Evidence Act, 1872, or in any other law for the time being in force, no Court, tribunal or

other authority shall have power to require the <sup>1</sup> [Development Bank] or any of its officers to produce before such Court, tribunal or other authority the report of the inspection made by it under sub-section (1) or any copy thereof.

(4) The State Government may, after considering any report sent to it under sub-section (1), give such instruction to the Board as it considers necessary and it shall be the duty of the Board to comply with such instructions.]

1. Substituted for the words "Reserve Bank" by the Act 52 of 1975 S. 37 (16-2-1976).

### **38. Returns :-**

- <sup>1</sup>[(1) The Financial Corporation shall furnish to the State Government, the "Small Industries Bank" and the Reserve Bank such statements and returns in such form as the State Government, the "Small Industries Bank" or the Reserve Bank may require from time to time.]

(2) The Financial Corporation shall furnish <sup>2</sup>[to the State Government the Development Bank and the Reserve Bank within <sup>3</sup>[four months of the close of each financial year a statement in the prescribed form of its assets and liabilities as at the close of that year, together with a profit and loss account for the year, the auditors report and a report of the working of the Financial Corporation during the year and copies of the said statement, account and reports shall be published in the Official Gazette and shall also be laid before the Legislature of the State.

1. Substituted for sub-section 1 and 2 by the Act 43 of 1985 by S. 25 (22-8-1985).

2. Substituted for the words State Govt. and to the Reserve Bank by the Act 52 of 1975, s. 38 (16.2.1976).

3. Substituted for "three months" by the Act 56 of 1956, S. 22 (1-10-1956).

## **CHAPTER 5 Miscellaneous**

### **39. Power to give instructions to Financial Corporation on question of policy :-**

(1) In the discharge of its functions, the Board shall be guided by such instructions on question of policy as may be given to it by the State Government <sup>12</sup>[and after obtaining the advice of] "Small Industries Bank"

(2) If any dispute arises between the State Government and the Board as to whether a question is for or is not a question of policy the decision of the State Government shall be final.

<sup>3</sup>"(2-A) Nothing contained in sub-section (1) and sub-section (2) shall apply in a case where a State Government holds less than fifty-one per cent. of the equity shares in the Financial Corporation. (2-B) Notwithstanding the equity share holding of a Financial Corporation by a State Government, the State Government may advise the Financial Corporations on the matters of policy."

(3) If the Board fails to carry out the instructions on the question of policy laid down by the State Government <sup>2</sup> [under sub-section (1) of this section or the instructions given to the Board under sub-section (4) of section 37A ] the State Government shall have the power to supersede the Board and appoint a new Board

1. Inserted by the Act 56 of 1956 Section 23 (1-10-1956).

2. Substituted for the words "in consultation with", by the Act 77 of 1972, S. 26 (30-12-1972).

3. Inserted by the State Financial Corporations (Amendment) Act, 2000

#### **40. Declaration of fidelity and secrecy :-**

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(1) The Financial Corporation shall not, except as otherwise required by this Act or any other law for the time being in force, 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 Financial Corporation to divulge such information.

(2) The Financial Corporation may, for the purpose of efficient discharge of its functions under this Act, collect from or furnish to-

(a) the Central Government ;

(b) the State Bank of India constituted under S. 3 of the State Bank of India Act, 1955, any subsidiary bank within the meaning of the State Bank of India (subsidiary Banks) Act 1959, any

corresponding new bank constituted under S.3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under S.3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, any other scheduled bank, any **116**. "State Co-operative Bank, the Small Industries Bank or the Development Bank" such credit information or other information as it may consider useful for the purpose, in such manner and at such time as it may think fit.

Explanation.-For the purpose of this sub-section, the expression "credit information" shall have the same meaning as in Clause (c) of Section 45 of the Reserve Bank of India Act, 1934 subject to the modification that the banking company referred to therein shall mean a bank referred to in Clause (b) of this sub-section].

**117**(3) Every director; auditor officer or other employee of the Financial Corporation shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the schedule.

**118** (4)Nothing Contained in this section shall apply to the credit information disclosed under the Credit information Companies (Regulation) Act, 2005."

Substituted for "State Co-operative bank or the Development Bank" by the State Financial Corporations (Amendment) Act, 2000

Section 40 renumbered as sub-sections (3) and before such renumbered sub-section (3) sub-section (1) and (2) inserted by the Act 48 of 1983 S. 6 (30-12-1982).

In the STATE FINANCIAL CORPORATIONS ACT, 1951(63 of 1951),In Section 40,in Sub-section (4) shall be inserted as follows :- (4)Nothing Contained in this section shall apply to the credit information disclosed under the Credit information Companies (Regulation) Act, 2005. by the Credit Information (Regulation) act, 2005."

#### **41. Indemnity of directors :-**

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(1) Every director shall be indemnified by the Financial Corporation against all losses and expenses incurred by him in 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 Financial Corporation or for any

loss or expenses resulting to the Financial Corporation by the insufficiency or deficiency of value of or title to any property or security acquired or taken on behalf of the Financial Corporation or by the wrongful act of any person under obligation to the Financial Corporation or by anything done in good faith in the execution of the duties of his office or in relation thereto.

**41A. Protection of action taken by persons appointed under section 27 or section 32A :-**

[-No suit, prosecution or other legal proceeding shall be against any person appointed as director, administrator, managing agent or manager, by the Financial Corporation in pursuance of section 27 or section 32-A for anything which is in good faith done or intended to be done by him as such director, administrator, managing agent or manager.]

**41B. Nomination in respect of deposits, bonds, etc :-**

.. <sup>1</sup> (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 Financial Corporation in accordance with the provisions of sub-section (1) shall constitute a full discharge to the Financial Corporation of its liability in respect of such deposits, bonds or securities."

1. Inserted by the State Financial Corporations (Amendment) Act, 2000

**42. Offences :-**

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(1) Whoever, in any bill of lading, warehouse receipt or other document given to the Financial Corporation whereby security is given or is purported to be given to the Financial Corporation for any accommodation granted by it under this Act, wilfully makes any false statement or knowingly permits any false statement to be made shall be punishable with imprisonment for a term which may

extend to two years, or with fine which may extend to two thousand rupees or with both.

(2) Whoever, without the consent in writing of Financial Corporation, uses the name of the Financial Corporation in any prospectus or advertisement shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(3) No court shall take cognizance of any offence punishable under this Act otherwise than on a complaint in writing signed by an officer of the Financial Corporation authorized by the Board in this behalf.

### **43. Provisions relating to income-tax and super-tax :-**

-For the purposes of the ( Income tax Act, 1961 ) the Financial Corporation shall be deemed to be a company within the meaning of that Act and shall be liable to income-tax super-tax accordingly on its income, profit and gains ; Provided that any sum paid by the State Government under the guarantee given in pursuance of <sup>1</sup>[ section 7 or section 8 ] shall not be treated as the income, profits and gains of the Financial Corporation and any interest on debentures, <sup>2</sup>[bonds or deposits] paid by the Financial Corporation out of such shall not be treated as expenditure incurred by it ; Provided further that in the case of any shareholder such portion of a dividend as has been paid out of any such sum advanced by the State Government shall be deemed to be <sup>3</sup>[his] income from "interest on securities" <sup>4</sup> [and the income-tax shall be payable thereon as if it were the interest receivable on any security of a State Government issued income-tax free] within the meaning of section 9 of the Act.

1. Substituted for the words "under any guarantee given in pursuance of sub-section (2) of section 7" by the Act 6 of 1962, S. 22 (16-4-1962).

2. Substituted for the words "or bonds", by Act 6 of 1962.

3. Substituted for the words "its", by the Act 48 of 1952, S. 3 and Schedule II (2-8-1952).

4. Substituted for the words "declared to be income-tax free", by Act, 6 of 1962, S. 22 (16-4-1962).

### **43A. Delegation of powers :-**

[.-The Board may, by general or special order, delegate to the managing director or to any other officer of the Financial Corporation <sup>1</sup> [or to any committee (e) appointed under section 21 ] 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.]

1. Substituted for the words "or bonds", by Act 6 of 1962.

#### **43B. Reports to the Board :-**

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(1) The minutes of every meeting of the committee appointed under section 21 shall, after confirmation thereof at the next meeting of the committee, laid before the Board at the next following meeting of the Board.

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#### **44. Act XVIII of 1891 to apply to the books of the Financial Corpora- tion :-**

- The Financial Corporation shall be deemed to be a bank for the pur- poses of the Bankers Books Evidence Act, 1891.

#### **45. Liquidation of Financial Corporation :-**

-No provision of law relating to winding up of companies or corporations shall apply to the Financial Corporation, and the Financial Corporation shall not be placed in liquida- tion, save by order of the State Government and in such manner as it may direct.

#### **46. Power to apply Act to certain financial institutions in existence at commencement of Act :-**

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(1) The Central Government may, be notification in the official Gazette, direct that all or any of the provisions of this Act shall, subject to such exceptions and restrictions as may be specified, apply to <sup>1</sup>[any institution established by State Government ] which has for its object the financing of industrial concerns, and on the issue of such notification, the institution shall be deemed to be a

Financial Corporation established by the State Government for the State within the meaning of this Act, and the provisions of this Act shall become applicable thereto according to the tenor of the notification,

(2) Any notification issued under sub-section (1) may suspend the operation of any enactment applicable to any such institution immediately before the issue of the notification. <sup>2</sup> [Provided that no notification shall be issued under this sub-section in respect of any institution unless a request is made in this behalf by the State Government concerned.]

1. Substituted by the Act 43 of 1985, S. 27 (22-8-1985).

2. Inserted by the Act 43 of 1985 S. 29 (22-8-1985).

**46A. Extension of jurisdiction of the Financial Corporation to other State by agreement :-**

[.-

(1) Where a Financial Corporation has been established for any State <sup>1</sup>(and one or more other States not served in whole or in part by financial Corporation] desires that the Financial Corporation <sup>2</sup> [should serve the needs of those States or of any area therein] and the States, after consultation with the "Small Industries Bank" enter into an agreement which is published in the Official Gazettes of each of those States, then the Financial Corporation shall, on the issue of a notification in the Official Gazette by the Central Government serve the needs of those States or as the case may be of the area therein] in terms of the agreement or and any Financial Corporation-

(1A) Any agreement entered into under sub-section (1) may be modified or rescinded by mutual agreement between the parties thereto and every such mutual agreement also provide for the appointment of assets and liabilities.

(2) An inter-State agreement among the participating State may, as far as may be, make all such provisions as are referred to in sub-section (2) of Section 3A .

1. Substituted for the words "and any other State", by the Act 77 of 1972 S. 27 (30-12-1972).

2. Substituted for the words "should serve its needs", by the Act 77 of 1972.

#### **46B. Effect of Act on other laws :-**

[.-The provisions of this Act and of any rules or orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the memorandum or articles of association of an industrial concern or in any other instrument having effect by virtue of any law other than this Act, but save as aforesaid, the provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being applicable to an industrial concern.]

#### **47. Powers of State Government to make rules :-**

- 1

1. Omitted for section 47 for "The State Government may make rules not inconsistent with the provisions of this Act to give effect to the provisions of this Act and in particular, such rules may provide for the limitation on the voting rights of a shareholder and the manner in which such voting rights may be exercised and where there is any inconsistency between the rules and the regulations made under this Act, the rules shall prevail." by the State Financial Corporations (Amendment) Act, 2000

#### **48. Power of Board to make regulations :-**

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(1) The Board may, after consultation with the "Small Industries Bank" and with the previous sanction of the State Government, make regulations not inconsistent with this Act and the rules made thereunder 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 powers, such regulations may provide for-

(a) the holding and conduct of elections under this Act, including the final decision on doubts or disputes regarding the validity of elections;

(b) the manner in which, and the conditions subject to which, the first allotment of the shares of the Financial Corporation shall be made;

(c) the manner in which and the conditions subject to which, the shares of the Financial Corporation may be held and transferred and generally all matters relating to the rights and duties of the

shareholders ;

<sup>1</sup>"(ca) the maintenance of register of shareholders, particulars to be entered in such register, the safeguards to be observed in the maintenance of register of shareholders on computer floppies or diskettes, compact disk or any other electronic form the inspection and closure of the register of shareholders and all other matters connected therewith under Section 6; (cb) the manner of nomination of directors under clause (d) of Section 10; (cc) the entrusting or delegation of duties to the managing director by the Board under clause (c) of sub-section (1) of Section 17; (cd) the functions of Executive Committee under sub-section (2) of Section 18; (ce) the guidelines and prudential norms in accordance with which investment may be made under Section 34; (cf) the manner in which nomination may be made under Section 41- B; and (cg) the investments (whether by way of deposits in bank or otherwise) of the amounts which are not for the time being required for transaction of business."

(d) the manner in which general meetings shall be convened, the procedure to be followed thereat and the manner in which voting rights may be exercised;

(e) the calling of meetings of the Board and of the Executive Committee fees for attending meetings thereof and the conduct of business thereat;

(f) the manner and terms of issue and repayment of bonds and debentures by the Financial Corporation ;

(g) the conditions which the Financial Corporations may impose in grant- ing loans or advances;

(h) [omitted by the Act 43 of 1985 S. 30]

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

(j) the duties and conduct of officers, other employees, advisers and agents of the Financial Corporation ;

(k) the establishment and maintenance of provident or other benefit funds for employees of the Financial Corporation ;

(l) the taking over of the management of any industrial concern on a branch of its agreement with the Financial Corporation ;

(m) the appointment of <sup>2</sup>[committees] for the purposes of this ACL <sup>3</sup>fees for attending meetings thereof and the conduct of business thereat] ; and

(n) generally, the efficient conduct of the affairs of the Financial Corporation.

<sup>1</sup>"(o) the form and manner in which the balance-sheet and the

accounts of the Financial Corporation shall be prepared; (p) any other matter which is to be, or may be, prescribed."

<sup>5</sup> [(3) All regulations made under this section shall be published in the Official Gazette and any such regulation shall have effect from such earlier or later date as may be specified in the regulations.]

1. Inserted by the State Financial Corporations (Amendment) Act, 2000

2. Substituted by the Act 43 of 1985 S. 30 (22-8-1985).

3. Inserted by the Act 56 of 1956, S. 25 (1-10-1956).

5. Sub-section (3) substituted and deemed always to have been substituted, by the Act 77 of 1972, S. 28.

#### **48A. Laying of rules and regulations before State Legislature :-**

<sup>7</sup>[\*\*\*] and every regulation made under section 48 shall be laid, as soon as may be after it is made, before the State Legislature.

7. The words "Every rule made under section 47 and "omitted by Act 39 of 2000, sec. 36 (w.e.f. 5-9-2000).

#### **48B. Power to make rules :-**

<sup>1</sup> (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act. (2) In particular, and without prejudice to the generality of the foregoing power such rules may provide for the procedure for filing and hearing of appeals under sub- section (5) of Section 5. (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and ,if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

1. Inserted by the State Financial Corporations (Amendment) Act, 2000

#### **49. 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 any- thing, 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 commencement of the said Amendment Act.]

#### **SCHEDULE 1**

Declaration of Fidelity and Secrecy