Banking Regulation Act, 1949

Section 36A - CERTAIN PROVISIONS OF THE ACT NOT TO APPLY TO CERTAIN BANKING COMPANIES

1) The provisions of section 11-, sub-section (1)of section 12-,and sections 17-,18-,24-and25- shall not apply to a banking company- (a) which, whether before or after the commencement of the Banking Companies (Amendment) Act. 1959, has been refused a licence under section 22-, or prohibited from accepting fresh deposits by a compromise, arrangement or scheme sanctioned by a court or by any order made in any proceeding relating to such compromise, arrangement or scheme, or prohibited from accepting deposits by virtue of any alteration made in its memorandum; or (b) whose licence has been cancelled under section 22-, whether before or after the commencement of the Banking Companies (Amendment) Act, 1959. (2) Where the Reserve Bank is satisfied that any such banking company as is referred to in subsection (1) has repaid, or has made adequate provision for repaying all deposits accepted by the banking company, either in full or to the maximum extent possible, the Reserve Bank may, by notice published in the Official Gazette, notify that the banking company has ceased to be a banking company within the meaning of this Act. and thereupon all the provisions of this Act applicable to such banking company shall cease to apply to it, except as respects things done or omitted to be done before such notice.] PART 02A: CONTROL OVER MANAGEMENT SECTION 36AA POWER OF RESERVE BANK TO REMOVE MANAGERIAL AND OTHER PERSONS FROM OFFICE (1) Where the Reserve Bank is satisfied that in the public interest or for preventing the affairs of a banking company being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of any banking company it is necessary so to do, the Reserve Bank may. for reasons to be recorded in writing, by order, remove from office, with effect from such date as may be specified in the order183[any chairman, director,] chief executive officer (by whatever name called) or other officer or employee of the banking company. (2) No order under sub-section (1) shall be made183[unless the chairman or director] or chief executive officer or other officer or employee concerned has been given a reasonable opportunity of making a representation to the Reserve Bank against the proposed order: Provided that if. In the opinion of the Reserve Bank, any delay would be detrimental to the interests of the banking company or its depositors, the Reserve Bank may, at the time of giving the opportunity aforesaid or at any time thereafter, byorder direct that, ending the consideration of the representation aforesaid, if any,183[the chairman or, as the case may be, director or chief executive officer] or other officer or employee, shall not, with effect from the date of such order- (a)183[act as such chairman or director] or chief executive officer or other officer or employee of the banking company; (b) in any way, whether directly or indirectly, be concerned with, or take part in the management of. The banking company. (3) (a) Any person against whom an order of removal has been made under sub-section (1) may. Within thirty days from the date of communication to him of the order, prefer an appeal to the Central Government. (b) The decision of the Central Government on such appeal, and subject thereto, the order made by the Reserve Bank under sub-section (1), shall be final and shall not be called into question in any court. (4) Where any order is made in respect of183[a chairman, director] or chief executive officer or other officer or employee of a banking company under sub-section (1), he shall cease to be183[a chairman, or as the case may be, a director,] chief executive officer or other officer or employee of the banking company and shall not, in anyway, whether directly or indirectly, be concerned with, or take part in the management of, any banking company for such period not exceeding five years as may be specified in the order. (5) If any person in respect of whom an order is made by the Reserve Bank under sub-section (1) or under the proviso to sub-section (2) contravenes the provisions of this section, he shall be punishable with fine which may extend to two hundred and fifty rupees for each day during which such contravention continues. (6) Where an order under sub-section (1) has been made the Reserve Bank may, by order in writing, appoint a suitable person in place of183[the chairman or director] or chief executive officer or other officer or employee who has been removed from his office under that sub-section, with effect from such date as may be specified in the order. (7) Any person appointed

as 183[chairman, director or chief executive officer] or other officer or employee under this section, shall- (a) hold office during the pleasure of the Reserve Bank and subject thereto for a period not exceeding three years or such further periods not exceeding three years at a time as the Reserve bank may specify; (b) not incur any obligation or liability by reason only of his being183[a chairman, director or chief executive officer] or other officer or employee or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto. (8) Notwithstanding anything contained in any law or in any contract, memorandum or articles of association, on the removal of a person from office under this section, that person shall not be entitled to claim any compensation for the loss or termination of office.] SECTION 36AB POWER OF RESERVE BANK TO APPOINT AFDDITIONAL DIRECTORS (1) If the Reserve Bank is of 185[opinion what in the interests of banking policy or in the public interest or] in the interests of the banking company or its depositors it is necessary so to do, it may. from time to time by order in writing, appoint, with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the banking company:186[x x x] (2) Any person appointed as additional director in pursuance of this section- (a) shall hold office during the pleasure of the Reserve Bank and subject thereto for a period not exceeding three years or such further periods not exceeding three years at a time as the Reserve Bank may specify: (b) shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto: and (c) shall not be required to hold qualification-shares in the banking company. (3) For the purpose of reckoning any proportion of the total number of directors of the banking company, any additional director appointed under this section shall not be taken into account.] SECTION 36AC: PART IIA TO OVERRIDE OTHER LAWS Any appointment or removal of a director, chief executive officer or other officer or employee in pursuance of section 36AA-or section 36AB-shall have effect notwithstanding anything to the contrary contained in the Companies Act. 1956. or any other law for the time being in force or in any contract or any other instrument.] PART 02B: PROHIBITION OF CERTAIN ACTIVITIES IN RELATION TO BANKING COMPANIES SECTION 36AD: PUNISHMENT FOR CERTAIN ACTIVITIES IN RELATION TO BANKING COMPANIES (1) No person shall (a) obstruct any person from lawfully entering or leaving any office or place of business of a banking company or from carrying on any business there, or (b) hold. within the office or place of business of any banking company, any demonstration which is violent or which prevents, or is calculated to prevent, the transaction of normal business by the banking company, or (c) act in any manner calculated to undermine the confidence of the depositors in the banking company. (2) Whoever contravenes any provision of sub-section (1) without any reasonable excuse shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. 189[(3) For the purposes of this section "banking company" includes the Reserve Bank, the Development Bank, the Exim Bank,190[the Reconstruction Bank]191[the National Housing Bank] the National Bank. the State Bank of India, a corresponding new bank. a Regional Rural Bank and a subsidiary bank.]] PART 02C: ACQUISITION OF THE UNDERTAKINGS OF BANKING COMPANIES IN CERTAIN CASES SECTION 36AE: POWER OF CENTRAL GOVERNMENT TO ACQUIRE UNDERTAKINGS OF BANKING COMPANIES IN CERTAIN CASES (1) If, upon receipt of a report form the Reserve Bank, the Central Government is satisfied that a banking company (a) has, on more than one occasion, failed to comply with the directions given to it in writing under section 21-or section 35A-. in so far as such directions relate to banking policy, or (b) is being managed in a manner detrimental to the interests of its depositors.- and that (i) in the interests of the depositors of such banking company, or (ii) in the interests of banking policy, or (iii) for the better provision of credit generally or of credit to any particular section of the community or in any particular area. it is necessary to acquire the undertaking of such Banking company, the Central Government may, alter such consultation with the Reserve Bank as it thinks fit. by notified order, acquire the undertaking of such company (hereinafter referred to as the acquired bank) with effect from such date as may he specified in this behalf by the Central Government (hereinafter referred to as the appointed day): Provided that no undertaking of any banking company shall be so acquired unless such banking company has been given a reasonable opportunity of showing cause against the proposed action. (2) Subject to the other provisions contained in this Part, on the appointed day. the undertaking of the acquired bank and all the assets and liabilities of the acquired bank shall stand transferred to and vest in. the Central Government. (3) The undertaking of the acquired bank and its assets and liabilities shall be deemed to include all rights, powers, authorities and privileges and all property, whether movable or immovable including, in particular, cash balances, reserve funds, investments, deposits and all other interests and rights in. or arising out of. Such property as may be in the possession of. or held by. the acquired bank immediately before the appointed day and all books, accounts and documents relating thereto, and shall also be deemed to include all debts, liabilities and obligations, of whatever kind, then existing of the acquired bank. (4) Notwithstanding anything contained in sub-section (2), the Central Government may. if it is satisfied that the undertaking of the acquired bank and its assets and liabilities should, instead of vesting in the Central Government, or continuing to so vest, vest in a company established under any scheme made under this Part or in any corporation (hereinafter in this Part and in the Fifth Schedule referred to as the transferee bank) that Government may, by order, direct that the said undertaking including the assets and liabilities thereof, shall vest in the transferee bank either on the publication of the notified order or on such other date as may be specified in this behalf by the Central Government. (5) Where the undertaking of the acquired bank and the assets and liabilities thereof vest in the transferee bank under sub-section (4), the transferee bank shall, on and from the date of such vesting, be deemed to have become the transferee of the acquired bank and all the rights and all liabilities in relation to the acquired bank shall, on and from the date of such vesting, be deemed to have been the rights and liabilities of the transferee bank. (6) Unless otherwise expressly provided by or under this Part, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the appointed day and to which the acquired bank is a party or which are in favour of the acquired bank shall be of as full force and effect against or in favour of the Central Government, or as the case may be, of the transferee bank, and may be enforced or acted upon as fully and effectually as if in the place of the acquired bank the Central Government or the transferee bank had been a party thereto or as if they had been issued in favour of the Central Government or the transferee bank, as the Case may be. (7) If, on the appointed day, any suit, appeal or other proceeding of whatever nature is pending by or against the acquired bank, the same shall not abate, be discontinued or be. in any way, prejudicially affected by reason of the transfer of the undertaking of the acquired bank or of anything contained in this Part, but the suit. appeal or other proceeding may be continued, prosecuted and enforced by or against the Central Government or the transferee bank. as the case may be.] SECTION 36AF: POWER OF THE CENTRAL GOVERNMENT TO MAKE SCHEME (1) The Central Government may after consultation with the Reserve Bank. make a scheme for carrying out the purposes of this Part in relation to any acquired bank. (2) In particular, and without prejudice to the generality of the foregoing power, the said scheme may provide for all or any of the following matters, namely:- (a) the corporation. or the company incorporated for the purpose to which the undertaking including the property, assets and liabilities of the acquired bank may be transferred, and the capital, constitution, name and office thereof: (b) the constitution of the first Board of management (by whatever name called) of the transferee bank. and all such matters in connection therewith or incidental thereto as the Central Government may consider to be necessary or expedient; (c) the continuance of the services of all the employees of the acquired bank (excepting such of them as, not being workmen within the meaning of the Industrial Disputes Act, 1947, are specifically mentioned in the scheme) in the Central Government or in the transferee bank, as the case may be. On the same terms and conditions so far as may be, as are specified in clauses (i) and (j) of sub-section (5) of section 45-; (d) the continuance of the right of any person who, on the appointed day, is entitled to or is in receipt of a pension or other superannuation or compassionate allowance or benefit from the acquired bank or any provident, pension or other fund or any authority administering such fund to be paid by and to receive from, the Central Government or the transferee bank. as the case may be, or any provident, pension or other fund or any authority administering such fund, the same pension, allowance or benefit so long as he observes the conditions on which the pension, allowance or benefit was granted, and if any question arises whether he has so observed such conditions, the question shall be determined by the Central Government and the decision of the Central Government thereon shall be final: (e) the manner of payment of the compensation payable in accordance with the provisions of this Part to the shareholders of the acquired bank, or where the acquired bank is a banking company incorporated outside India, to the acquired bank in full satisfaction of their or as the case may be, its claims: (f) the provision, if any, for completing the effectual transfer to the Central Government or the transferee bank of any asset or any liability which forms part of the undertaking of the acquired bank in any country outside India: (g) such incidental, consequential and supplemental matters as may be necessary to secure that the transfer of the business, property assets and liabilities of the acquired bank to the Central Government or transferee bank. as the case may be, is effectual and complete. (3) The Central Government may, after consultation with the Reserve Bank, by notification in the Official Gazette, add to, amend or vary any scheme made under this section. (4) Every scheme made under this section shall be published in the Official Gazette. (5) Copies of every scheme made under this section shall be laid before each House of Parliament as soon as may be after it is made. (6) The provisions of this part and of any scheme made there under shall have effect notwithstanding anything to the contrary contained in any other provisions of this Act or in any other law or any agreement, award or other instrument for the time being in force. (7) Every scheme made under this section shall be binding on the Central Government or, as the case may be, on the transferee bank and also on all members, creditors, depositors and employees of the acquired bank and of the transferee bank and on any other person having any right, liability, power or function in relation to, or in connection with, the acquired bank or the transferee bank, as the case may be.] SECTION 36AG: COMPENSATION TO BE GIVEN TO SHAREHOLDERS OF THE ACQUIRED BANK (1) Every person who, immediately before the appointed day, is registered as a holder of shares in the acquired bank or, where the acquired bank is a banking company incorporated outside India, the acquired bank, shall be given by the Central Government, or the transferee bank, as the case may be, such compensation in respect of the transfer of the undertaking of the acquired bank as is determined in accordance with the principles contained in the Fifth Schedule. (2) Nothing contained in sub-section (1) shall affect the rights inter se between the holder of any share in the acquired bank and any other person who may have any interest in such shares and such other person shall be entitled to enforce his interest against the compensation awarded to the holder of such share, but not against the Central Government, or the transferee bank. (3) The amount of compensation to be given in accordance with the principles contained in the Fifth Schedule shall be determined in the first instance by the Central Government, or the transferee bank. as the case may be. in consultation with the Reserve Bank. and shall be offered by it to all those to whom compensation is payable under sub-section (1) in full satisfaction thereof. (4) If the amount of compensation offered in terms of sub-section (3) is not acceptable to any person to whom the compensation is payable, such person may. before such date as may be notified by the Central Government in the Official Gazette, request the Central Government in writing, to have the matter referred to the Tribunal constituted under section 36AH.- (5) If. before the date notified under sub-section (4). the Central Government receives requests, in terms of that sub-section, from not less than one-fourth in number of the share-holders holding not less than one-fourth in value of the paid-up share capital of the acquired bank, or, where the acquired bank is a banking company incorporated outside India, from the acquired bank. The Central Government shall have the matter referred to the Tribunal for decision. (6) If. before the date notified under sub-section (4). the Central Government docs not receive requests as provided in that sub-section, the amount of compensation offered under sub-section (3). and where a reference has been made to the Tribunal, the amount determined by it shall be SECTION 36AH: CONSTITUTION OF THE TRIBUNAL (1) The Central Government may for the purpose of this part constitute a Tribunal which shall consist of a Chairman and two other members. (2) The Chairman shall be a person who is. or has been a Judge of a High Court or of the Supreme Court, and of the two other members, one shall be a person, who. in the opinion of the Central Government, has had experience of commercial banking and the other shall be a person who is a chartered accountant within the meaning of the Chartered Accountants' Act. 1949. (3) If. for any reason, a vacancy occurs in the office of the Chairman or any other member of the Tribunal, the Central Government may fill the vacancy by appointing another person thereto in accordance with the provisions of sub-section (2). and any proceeding may be continued before the Tribunal, so constituted, from the stage at which the vacancy occurred. (4) The Tribunal may. for the purpose of determining any compensation payable under this part. choose one or more persons having special knowledge or experience of any relevant matter to assist it in the determination of such compensation.] SECTION 36AI: TRIBUNAL TO HAVE POWERS OF A CIVIL COURT (1) The Tribunal shall have the powers of a civil Court, while trying a suit. under the Code of Civil Procedure. 1908. in respect of the following matters, namely: (a) summoning and enforcing the attendance of any person and examining him on oath: (b) requiring the discovery and production of documents: (c) receiving evidence on affidavits: (d) issuing commissions for the examination of witnesses or documents. (2) Notwithstanding anything contained in sub-section (1), or in any other law for the time being in force, the Tribunal shall not compel the Central Government or the Reserve Bank,- (a) to produce any books of account or other documents which the Central Government, or the Reserve Bank. claims to be of a confidential nature; (b) to make any such books or documents part of the record of the proceedings before the

Tribunal; or (c) to give inspection of any such books or documents to any party before it or to any other person.] SECTION 36AJ: PROCEDURE OF THE TRIBUNAL (1) The Tribunal shall have power to regulate its own procedure. (2) The Tribunal may hold the whole or any part of its inquiry in camera. (3) Any clerical or arithmetical error in any order of the Tribunal or any error arising therein from any accidental slip or omission may. at any time, be corrected by the Tribunal either of its own motion or on the application of any of the parties.] Footnotes: 101. Substituted by the Banking Laws (Amendment) Act (I of 1984), S. 22 (15-2-1984). 103. Inserted by the Banking Laws (Amendment) Act (1 of 1984), S. 23 (15-2-1984). 105. Inserted by the banking Laws (Miscellaneous Provisions) Act, 1963 (55 of 1963), S. 13 (1-2-1964). 106. Inserted by the Banking (Amendment) Act, 1968 (58 of 1968), S. 6 (1-2-1969). 107. Words beginning with "as to the purposes" and ending with "directions as so given" in sub-section (2) substituted and sub -section (3) inserted by Act (55 of 1964), 109. Sub-section (1) and the words "sub's. (2)" in the first proviso to sub-s. (2) substituted by the Banking Companies (Amendment) Act (33 of 1959), S. 13 (1-10 -1959). 110. Substituted for the words "in a State" the Banking Companies (Amendment) Act (33 of 1959), S. 13 (1-10-1959) (20 of 1950), S. 3 (18 -3-1950). 113. Substituted, the Banking Laws (Amendment) Act (1 of 1984), S. 22 (15-2-1984). 114. Inserted, the Banking Laws (Amendment) Act (1 of 1984), S. 22 (15-2-1984). 116. Inserted by the National Bank for Agriculture and Rural Development Act (61 of 1981), S. 61, Second Sch., Pt. II (1-5-1982). 117. Substituted for the words "in the States" by the Banking Companies (Amendment) Act, 1950 (20 of 1950), S. 3 (18-3-1950). 118. Substituted for original explanation sub-section (2) and words "in India" inserted by the Banking Companies (Amendment) Act, 1959 (33 of 1959), S. 15 (1-10-1959). 119. Inserted by the Banking Companies (Amendment) Act 1962, (36 of 1962), S. 6 (16-9-1962). 120. Substituted for the words "time and demand liabilities" by the Banking Laws (Amendment) Act (1 of 1984),S. 26 (29-3-1985). 121. Substituted for the words "shall maintain in India in cash gold or unencumbered approved securities, valued at a price not exceeding the current market price, an amount which shall not at the close of business on any day be less than 25 per cent of the total of its demand and time liabilities in India", the Banking Laws (Amendment) Act (1 of 1984),S. 26 (29-3-1985). 123. Words "established under lection 3 of the Regional Rural Banks Act, 1976" omitted, the Banking Laws (Amendment) Act (1 of 1984),S. 26 (29-3-1985). 125. Substituted for the original clause (a) by the Banking Companies (Amendment) Act (20 of 1950), S. 7 (1-3-50). 126. Substituted for original sub-sections (1) and (2) by the Banking Companies (Amendment) Act, 1959 (33 of 1959), S. 16 (1-10-1959). 127. Clause (b) renumbered as Cl. (c) and new Cl. (b) inserted, the Banking Companies (Amendment) Act, 1959 (33 of 1959), S. 16 (1 -10-1959). 128. Inserted by the National Bank for Agriculture and Rural Development Act (61 of 1981) S. 61, Second Sch., Pt. II (1-5-1982). 129. Substituted for the words "in the States" by the Banking Companies (Amendment Act, 1950 (20 of 1950), S. 3 (18-3-1950). 130. Words "giving particulars of the deposits standing to the credit of each such account" were omitted by the Banking Laws (Miscellaneous Provisions) Act, 1963 (55 of 1963), S. 14 (1-2-1964). 131. Inserted by the National Bank for Agriculture and Rural Development Act (61 of 1981), S.61, Second Sch., Pt. II (1-5-1982). 132. Substituted for "in the States" by the Banking Compaines (Amendment) Act, 1950 (20 of l950), S. 3 (18-3-1950). 133. Substituted for old sub-section (2) by the Banking Companies (Amendment Act, 1956 (95 of 1956), S.6 (14 -1-1957). 134. Inserted by the National Bank for Agriculture and Rural Development Act (61 of 1981), S. 61, Second Sch., Pt. II (1-5-1982). 135. Substituted for "the classification of advances and investments of banking companies in respect of industry, commerce and agriculture" by the Banking Companies (Amendment) Act, 1959 (33 of l959), S.17 (1-10-1959). 137. Substituted for the words "in a State" by the Banking Companies (Amendment) Act, 1950 (20 of 1950), S. 3 (8-3-1950). 138. Substituted for the words "outside the States", the Banking Companies (Amendment) Act, 1950 (20 of 1950), S. 3 (8-3-1950). 139. Substituted for the words "in the States", the Banking Companies (Amendment) Act, 1950 (20 of 1950), S. 3 (8-3-1950). 140. Substituted for the words "marked F in the Third Schedule to the Indian Companies Act, 1913 (VII of 1913)" Act (95 of 1956), S. 14 and Schedule (14-1-1957). 141. Inserted by the Banking Laws (Amendment) Act (1 of 1984), S. 27 (15-2-1984). 142. Inserted by the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act (66 of 1988), S, 8 (30-12 -1988). 143. 31st day of March in each year specified as the date for the purposes of S. 29(1)-See Gaz. of India, 30 -12 -1988, Pt. II-S 3(ii), Ext., p. 1 (No. 687). 145. Substituted for the words "that year" the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act (66 of 1988), S. 8(30 -12-1988). 146. Proviso substituted, the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act (66 of 1988), S. 8(30-12 -1988). 147. Sub-section (l) substituted and sub-sections (1A), (1B) and (1C) inserted by the Banking Laws (Amendment) Act, 1968 (58 of 1968), S. 8 (1 -2-1969). 148. Substituted for the words "in a State" by the Banking Companies Act. 1950 (20 of 1950), S.3 (18-3-1950). 149. Substituted for the words "profit and loss" by the Banking Laws (Miscellaneous Provisions) Act, 1963 (55 of 1963), S. 15 (1-2-1964). 150. Substituted for the words "it may direct the auditor of the banking company to audit the accounts of the banking company in relation to any transaction or class of transactions specified in the order" by the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act (66 of 1988), S. 9 (30-12-1988). 151. Substituted for the words "the audit of the transaction or class of transactions", the banking company to audit the accounts of the banking company in relation to any transaction or class of transactions specified in the order" by the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act (66 of 1988), S. 9 (30 -12-1988). 153. Inserted by the' National Bank for Agriculture and Rural Development Act (61 of 1981). S. 61. Second Sch., Part II (1-5-1982). 154. Substituted by the Banking Companies (Amendment) Act. 1959 (33 of 1959) S. 19 (1-10-1959). 155. Substituted for the words "outside the States" by the Banking Companies (Amendment) Act. 1950 (20 of 1950). S.3 (18-3-1950). 156. Substituted for the words "in the States", the Banking Companies (Amendment) Act. 1950 (20 of 1950). S.3 (18-3-1950). 158. Sub-section (3) substituted by the Banking Laws (Amendment) Act (1 of 1984), S. 28 (15-2-1984). 159. Inserted by the Industrial Reconstruction Bank of India Act (62 of 1984). S. 71. Third Sch.. Pt. OIII (20-3-1985). 160. Inserted by the National Housing Bank Act (5.1 of 1987). S. 56, Second Sch.. Pt. II (9-7-1988). 161. Inserted by the Banking Laws (Miscellaneous Provisions) Act. 1963 (58 of 1963). S. 17(1-2-1964). 162. Inserted and deemed to have always been so inserted by the Banking Laws (Amendment) Act (1 of 1984). S. 29(i). 163. Inserted .S.29(ii)(iii)(iv) the Banking Laws (Amendment) Act (1 of 1984). S. 29(i)(15-2-1984). 164. Inserted by the National Bank for Agriculture and Rural Development Act (61 of 1981). S. 61. Second Sch., Pt. II (1-5-1982). 166. Substituted for the words "national interest by the Banking Companies (Amendment) Act. 1961 (7 of 1961).S.2 (24-3-1961). 167. . Inserted by the Banking Laws (Amendment) Act. 196K(58 of 1968). S. 10 (1-2-1969). 169. Substituted for the words "managing or whole-lime director or of a director not liable to retire by roiation" by the Banking Companies (Amendment) Act. 1959 (33of 1959). S. 21 (1-10 -1959). 170. Substituted for the figures and word "268.269. 310 and 311 .388" by the Banking Companies (Amendment) Act,1962 (36of 1963). 171. Substituted for the words "appointment or reappointment or remuneration of a Banking Laws (Amendment) Act 1958 (58 of 1968). S.11 (1-2-1969). 172. Clause (b) of sub-section (1) substituted the Banking Laws (Amendment) Act (1 of 1984). S. 29(i). 173. Substituted for the words "as a managing or whole -time director", the Banking Laws (Amendment) Act (1 of 1984). S. 29(i). 174. Substituted for the word "appointment", the Banking Laws (Amendment) Act (1 of 1984). S. 29(i). 175. Inserted by the Banking Laws (Amendment) Act (1 of 1984). S. 30 (15-2-1984). 176. Substituted for the words and figures "provisions of S. 310". the Banking Laws (Amendment) Act (1 of 1984). S. 30 (15-2-1984). 177. Substituted for the figure "45" by the Banking Companies (Amendment) Act. 1959 (.13 of 1959), S.22 (1-10 -1959). 178. Substituted by the Banking Companies (Amendment) Act. 1956 (95 of 1956). S. 8 (14-1-1957). 179. Substituted for the words "during the course or after the completion of any inspection of a banking company under S. 35" by the Banking Companies (Amendment) Act. 1968 (58 of 1968). S. 12 (1 -2-1969). 183. Substituted for the words "any director" in sub-sec. (1) "unless the director" in sub-sec. (2). "the director or. as the case may be. chief executive officer" in the .proviso, "act ct such director" in Cl. (a) "a director" where they occur for the first time in sub-sec, (4). "a director or, as the case may be. " in that sub-section, "the director" in sub-section (6) and "director or chief executive officer" wherever they occur in sub-sec.(7), by the Banking Laws (Amendment) Act. 196: (58 of 3968) S. 3.3 (3-2-1969). 185. Substituted for the words -opinion that' (58 of 1968). S. 14(1-2-1969)the Banking Companies (Miscellaneous Provisions) Act. 1963 (55 of 196.1). S. 18 (1-2-1964). 186. Proviso omitted by the Banking Laws (Amendment) Act (1 of 1984). S. 31 (15-2-1984). 189. Substituted for sub-section (3) by the Banking Laws (Amendment) Act (1 of 1984), S. 32 (15-2-1984). 190. Inserted by the Industrial Reconstruction Bank of India Act (62 of 1984). S. 71. Third Sch.. Pt. III (20-3-1985). 191. Inserted by the National Housing Bank Act (53 of 1987). S. 56. Second Sch.. Pt. II (9-7-1988). PART 03: SUSPENSION OF BUSINESS AND WINDING UP OF BANKING COMPANIES "In Parts III and IIIA. the expression 'High Court' has been used. Its jurisdiction has been defined in sections 45B-,45C-and45J-. The High Court shall have exclusive jurisdiction to deal with three distinct classes of cases- (a) proceedings in relation to suspension of business of banks: (b) winding up proceedings and questions which relate to or arise in the course of the winding up of the banking company, whether such question has arisen or arises before or after the winding up order: (c) scheme of compromise or arrangement under section 153 of the Indian Companies Act, 1913-. Under section 45J-. the High Court will have jurisdiction to try all offences under (he Banking Companies Act as also under the Indian Companies Act. Under section 45C-. it has been provided that all proceedings, whether civil or criminal pending in any Court, other than the High Court, shall be automatically stayed as soon as the Act comes into force. The High Court may transfer to itself such of proceedings as it thinks fit. Cases which are not so transferred to the High Court shall be continued in the Court in which they are pending". -S.O.R."The practice which prevails in all the States except Bombay is that a private liquidator is appointed by the Court as official liquidator. It is considered desirable for greater expedition and reduction in costs of liquidation and from other standpoints that a Court liquidator should be appointed who shall be in charge of all liquidation proceedings. It has, therefore, been provided that a Court liquidator should be appointed by every High Court unless the Central Government grants an exemption in this behalf. The Court liquidator shall be the official liquidator, unless the High Court otherwise directs. In respect of proceedings now pending before any private liquidator, the private liquidator shall, unless the High Court otherwise directs, vacate his office and the vacancy shall be filled in by the appointment of the Court. liquidator. An exception has been made in respect of the Reserve Bank in section 39-. When the Reserve Bank makes an application in this behalf, the Reserve Bank shall be appointed as the official liquidator.-S,0.R."In the case of a banking company, rapidity in liquidation is essential if the assets are not to grow cold or to be dissipated. The provisions for calling meetings of creditors to discuss arrangements or to appoint an advisory committee to work with the official liquidator should, therefore, be rescinded in the case of banking companies unless the Court considers that this should be done". - S.O.R."Secs. 43". as substituted by the Amending Act of 1953 "seeks to clarify the intention underlying S.43. In interpreting the existing section 43-. some High Courts have held that depositors should be required to file their- claims. The revised section disnenses with the necessity of filing such formal claims in order to rank for dividend." -S.O.R.["Section 45-has been amended to clarify the functions of the Reserve Bank in relation to schemes of arrangement. A certificate of the Reserve Bank under section 45-of the Banking Companies Act shall state that- (a) the arrangement is not detrimental to the interests of the depositors: and (b) the arrangement is not impracticable. It is considered that on a direction from the High Court, the Reserve Bank should investigate into the affairs of the bunk and the conduct of the past management. Such a report of the Reserve Bank will be helpful to the High Court in exercising its discretion in sanctioning the scheme" -S.O.R.