

Rep. by Act 38 of 1978, S. 2 & Sch. I

**THE INDUSTRIAL FINANCE CORPORATION
(AMENDMENT) ACT, 1972**

No. 74 OF 1972

[24th December, 1972]

An Act further to amend the Industrial Finance Corporation Act, 1948

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. This Act may be called the Industrial Finance Corporation (Amendment) Act, 1972. Short title.

15 of 1948. 2. In section 2 of the Industrial Finance Corporation Act, 1948 (hereinafter referred to as the principal Act),— Amendment of section 2.

(a) after clause (b), the following clause shall be inserted, namely:—

‘(ba) “Court” means the High Court (or where there is no High Court and the powers of the High Court are exercised by the Court of Judicial Commissioner, such Court) within the local limits of whose jurisdiction the defendant or respondent carries on the whole or a substantial part of his business, and where the Central Government has, by notification in the Official Gazette and subject to such restrictions, limitations and conditions as it thinks fit, empowered any Court of civil jurisdiction subordinate to the High Court to exercise all or any of the powers conferred by this Act, such Court;’;

(b) in clause (c), for the words “any public limited company”, the words “any limited company” shall be substituted;

Repealed

(c) after clause (f), the following clause shall be inserted, namely:—

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

2 of 1934.

Amend-
ment of
section 4.

3. In section 4 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) On and from the commencement of the Industrial Finance Corporation (Amendment) Act, 1972, the authorised capital of the Corporation shall stand increased to twenty crores of rupees, divided into forty thousand shares of five thousand rupees each, and the shares representing the capital so increased may be issued, with the sanction of the Central Government, as and when the Corporation may deem fit.";

(b) in sub-section (7), after the words "the Development Bank", the words "the Reserve Bank" shall be inserted.

Amend-
ment of
section
10A.

4. In section 10A of the principal Act, in sub-section (4), the words "Central Committee" wherever they occur shall, subject to such grammatical variations and omission of cognate expressions as may be necessary, be omitted.

Amend-
ment of
section 11.

5. In section 11 of the principal Act, in sub-section (4), for the words "the Central Committee or any other Committee", the words "any Committee" shall be substituted.

Omission
of
section 14.

6. Section 14 of the principal Act shall be omitted.

Amend-
ment of
section 17.

7. In section 17 of the principal Act,—

(a) in sub-section (1), the words "and of the Central Committee" shall be omitted;

(b) in sub-section (2),—

(i) the brackets and letter "(a)" shall be omitted;

(ii) sub-clause (b) shall be omitted;

(c) in sub-section (3), for the words "or of the Central Committee, each Director or member of the Committee, as the case may be," the words "each Director" shall be substituted;

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) If for any reason the Chairman is unable to be present at a meeting of the Board, a Director authorised by the Chairman in writing in this behalf, shall preside at that meeting and in default of such authorisation, the Board may elect a Director to preside at that meeting."

Amend-
ment of
section 20.

8. In section 20 of the principal Act, the words "and the Corporation may also subscribe to, or purchase, the shares of any financial institution which the Central Government may, in consultation with the Development Bank, notify in this behalf" shall be added at the end.

Repealed

9. In section 21 of the principal Act,—

Amendment of section 21.

(a) in the proviso to sub-section (1), for the words "shall not at any time exceed ten times the amount of the paid-up share capital and the reserve fund of the Corporation", the words, figures, letters and brackets "shall not at any time exceed ten times of such amount as is the aggregate of the paid-up share capital, the reserve fund established under sub-section (1) of section 32, the special reserve fund established under section 32A, the benevolent reserve fund established under section 32B and any other reserves of the Corporation (not being reserves for bad and doubtful debts or for depreciation of assets or a reserve created or maintained to meet any specific contingency)" shall be substituted;

(b) to sub-section (2), the following proviso shall be added, namely:—

"Provided that no such guarantee by the Central Government shall be required in respect of such bonds and debentures of the Corporation as are issued to the Development Bank.";

(c) in the proviso to sub-section (4), for the words "shall not at any time in the aggregate exceed ten times the amount of the paid-up share capital and the reserve fund of the Corporation", the words "shall not at any time exceed, in the aggregate, the limit specified in the proviso to sub-section (1)" shall be substituted.

10. After section 21 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 21A and 21B.

"21A. Notwithstanding anything contained in any other law for the time being in force, the bonds and debentures issued or sold by the Corporation shall be, and shall be deemed always to have been, approved securities for the purpose of the Indian Trusts Act, 1882, the Insurance Act, 1938, and the Banking Regulation Act, 1949.

Bonds and debentures to be approved securities.

21B. The rights and interests of the 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 Corporation, either in whole or in part, by the execution or issue of any instrument, or by the transfer of any instrument by endorsement or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred, and the Corporation may, notwithstanding such transfer, act as the trustee for the transferee."

Power to transfer rights.

11. In section 23 of the principal Act,—

Amendment of section 23.

(a) in sub-section (1),—

(i) in clause (b), the proviso shall be omitted;

(ii) in clause (d), the words "and retaining as part of its assets, any stocks, shares, bonds or debentures which it may have to take up in fulfilment of its obligations thereto" shall be inserted at the end;

f 1882
of 1938.
of 1949.

Repealed

(iii) after clause (d), the following clause shall be inserted, namely:—

“(da) transferring for consideration any instrument relating to loans and advances granted by it to industrial concerns;”;

(iv) clause (h) shall be omitted;

(v) in clause (i),—

(a) in the proviso, for the words “which may at the option of the Corporation be convertible”, the words “the amounts outstanding thereon may be convertible at the option of the Corporation” shall be substituted;

(b) after the proviso, the following *Explanation* shall be inserted, namely:—

“*Explanation.*—In this clause, the expression “the amounts outstanding thereon”, used in relation to any loan or advance, shall mean the principal, interest and other charges payable on such loan or advance as at the time when the amounts are sought to be converted into stocks or shares;”;

(vi) in clause (ii), the word “and” occurring at the end shall be omitted;

(vii) after clause (i) as so amended, the following clause shall be inserted, namely:—

“(ii) doing any kind of business which the Central Government may, on the recommendation of the Development Bank, authorise; and”;

(b) in sub-section (2),—

(i) for the words, brackets, letters and figure “No accommodation shall be given under clauses (a), (b), (c) and (i) of sub-section (1), unless it is secured by a sufficient”, the words, brackets, letters and figure “In granting accommodation under clause (a), clause (b), clause (c) or clause (i) of sub-section (1), the Corporation may have it secured by” shall be substituted;

(ii) for the words “or unless it is guaranteed”, the words “or may have it guaranteed” shall be substituted.

Amend-
ment of
section 24.

12. In section 24 of the principal Act, for the words “with a single industrial concern for an amount exceeding two crores of rupees in the aggregate”, the words “with any single industrial concern for an amount which, together with the amount outstanding in respect of any arrangement already entered into by the Corporation with that concern, exceeds two crores of rupees in the aggregate” shall be substituted.

Repealed

13. In section 25 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

Amendment of section 25.

“(2) Where any arrangement entered into by the Corporation with an industrial concern provides for the appointment by the 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 anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the industrial concern, and any provision regarding share qualification, age limit, number of directorships, removal from office of Directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any Director appointed by the 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 Corporation and may be removed or substituted by any person by order in writing by the Corporation;

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

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

14. Section 26 of the principal Act shall be re-numbered as sub-section (1) of that section and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

Amendment of section 26.

“(2) The Corporation shall not enter into any kind of business with any industrial concern of which any of the Directors of the Corporation is a Director, manager, agent, employee or guarantor or in which one or more Directors of the Corporation together hold substantial interest:

Provided that this sub-section shall not apply to any industrial concern if any Director of the Corporation—

(i) is nominated as a Director on the Board of such concern by Government, or a Government company as defined in section 617 of the Companies Act, 1956, or by a Corporation established by any other law, or

(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 section 617 of the Companies Act, 1956, or by a Corporation established by any other law,

by reason only of such nomination or election, as the case may be.

Repeated

Explanation.—"Substantial interest", in relation to an industrial concern, means the beneficial interest held by one or more of the Directors of the 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 Industrial Finance Corporation (Amendment) Act, 1972, and all such business and any transaction in relation thereto may be implemented or continued as if that Act had not come into force;

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

Amend-
ment of
section 27.

15. In section 27 of the principal Act, for sub-section (3) and sub-section (4), the following sub-sections shall be substituted, namely:—

"(3) All loans and advances granted to industrial concerns by the Corporation out of foreign currency borrowed under sub-section (1) shall be expressed in terms of foreign currency as equivalent of Indian currency, calculated in accordance with the rate of exchange prevailing at the time of grant thereof, and the amount due thereunder shall be repayable in equivalent Indian currency, calculated in accordance with the rate of exchange prevailing at the time of repayment of such loan or advance.

(4) Any loss or profit in connection with any borrowing of foreign currency under sub-section (1) for the purpose of granting loans and advances under this Act or with its repayment to the concerned foreign lending agency, on account of any fluctuations in the rate of exchange accruing—

(a) during the period within which the loan or advance is repayable by the industrial concern or the period of actual repayment thereof by the concern, whichever is longer, shall be reimbursed by, or paid to, as the case may be, the recipients of such loans and advances;

(b) after the expiry of the period specified in clause (a),—

(i) shall be borne by the Corporation in respect of normal market fluctuations in foreign exchange;

(ii) shall be reimbursed by, or paid to, as the case may be, the Central Government in respect of fluctuations other than the normal market fluctuations in foreign exchange.

Repealed

Explanation.—If any question arises as to whether any fluctuation as aforesaid is a normal market fluctuation or not, the same shall be decided by the Central Government whose decision thereon shall be final.”

16. In section 28 of the principal Act,—

Amendment of section 28.

(a) in sub-section (1),—

(i) after the words “of any loan or advance or any instalment thereof”, the words “or in meeting its obligations in relation to any guarantee given by the Corporation” shall be inserted;

(ii) for the words “right to take over the management of the concern”, the words “right to take over the management, or possession, or both, of the concern” shall be substituted;

(b) in sub-section (3A),—

(i) for the words “Where the management of an industrial concern is taken over by the Corporation or any property is transferred and realised by it”, the words “Where any action has been taken against an industrial concern” shall be substituted;

(ii) for the words “as incidental to such management, or transfer and realisation”, the words “as incidental thereto” shall be substituted;

(iii) after the words “which is received by it”, the words “from such management, or transfer and realisation” shall be omitted;

(c) in sub-section (4), after the words “over the management”, the words “or possession” shall be inserted.

17. In section 30 of the principal Act,—

Amendment of section 30.

(a) in sub-section (1),—

(i) after the words “any default in repayment of any loan or advance or any instalment thereof”, the words “or in meeting its obligations in relation to the guarantee given by the Corporation” shall be inserted;

(ii) for the words “the District Judge within the local limits of whose jurisdiction the industrial concern carries on the whole or a substantial part of its business”, the words “the Court” shall be substituted;

(b) in sub-sections (3) to (9), for the words “the District Judge”, wherever they occur, the words “the Court” shall be substituted.

(c) in sub-section (9) as so amended, in the second proviso, for the words “unless the High Court otherwise directs”, the words “unless the Court empowered to hear appeals from the decisions of the said Court otherwise directs” shall be substituted;

(d) in sub-section (11), for the words “appeal to the High Court, and upon such appeal, the High Court may”, the words “appeal to

Repealed

the Court empowered to hear appeals from the decisions of the Court which passed the order and the appellate Court may" shall be substituted;

(e) sub-section (13) shall be omitted;

(f) after sub-section (13) as so omitted, the following sub-sections shall be inserted, namely:—

"(14) 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 the power to appoint a receiver and to exercise all other powers incidental thereto.

(15) All proceedings (whether by way of suits or appeals or other proceedings) under this Act pending before a District Judge or an Additional District Judge or a High Court at the commencement of the Industrial Finance Corporation (Amendment) Act, 1972, shall, on such commencement, be proceeded with and disposed of as if this section had not been amended by the said Act.

(16) Every suit or other proceedings which are disposed of in accordance with the provisions contained in sub-section (15) or in respect of which time for appeal has not expired at the commencement of the Industrial Finance Corporation (Amendment) Act, 1972, may, on such commencement, be appealed against as if this section had not been amended by the said Act."

Amend-
ment of
section 32.

18. In section 32 of the principal Act, in sub-section (2), the second proviso shall be omitted.

Insertion
of new
section
32B.

19. After section 32A of the principal Act, the following section shall be inserted, namely:—

Bene-
volent
reserve
fund.

"32B. (1) The Corporation shall establish a special fund, to be called the benevolent reserve fund.

(2) To the benevolent reserve fund shall be credited—

(a) any part of the annual profit which may, from time to time, be allocated to the fund;

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

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

(d) income accruing or arising to the fund by way of interest or otherwise.

(3) The benevolent reserve fund shall be used by the Corporation—

(a) for meeting the cost of feasibility studies, project reports, market and techno-economic surveys and such other purposes which, in the opinion of the Corporation, may promote the development of industries;

Repealed

(b) in the field of development banking and in financial and industrial management—

(i) for undertaking and promoting research;

(ii) for training in India or abroad of personnel of financial institutions; and

(iii) for creating chairs in universities, academic institutions and research foundations;

(c) for assisting projects promoted by technologists and new entrepreneurs—

(i) by subsidising the normal lending rate of interest of the Corporation in respect of loans or advances sanctioned to them;

(ii) by providing technical and managerial assistance to projects promoted by them especially in less industrially developed regions;

(d) for rendering any assistance that may be ancillary or incidental to the aforementioned purposes.”.

20. In section 39 of the principal Act, after the words “Every Director,” the words “member of any Advisory or other Committee,” shall be inserted. Amendment of section 39.

21. In section 43 of the principal Act,—

(a) in sub-section (1), for the words “after consultation with the Development Bank and with the previous sanction of the Central Government”, the words “with the previous sanction of the Development Bank” shall be substituted; Amendment of section 43.

(b) in sub-section (2), in clause (e), for the words “Board and of the Central Committee,” the word “Board,” shall be substituted;

(c) sub-section (3) shall be omitted.