

Kerala Gazette No. 12 dated 23rd March 2021.

**PART I**

**Section i**



GOVERNMENT OF KERALA

**Law (Legislation-Publication) Department**

NOTIFICATION

No. 19089/Leg. Pbn. 2/2019/Law.

*Dated, Thiruvananthapuram, 23rd September, 2019.*

The following Act of Parliament published in the Gazette of India, Extraordinary, Part II, Section I, dated 27th day of July, 2019 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President of India on the 27th day of July, 2019.

By order of the Governor,

ARAVINTHA BABU, P. K.,

*Law Secretary.*

## THE PROTECTION OF HUMAN RIGHTS (AMENDMENT)

ACT, 2019

(ACT NO. 19 OF 2019)

AN

ACT

*further to amend the Protection of Human Rights Act, 1993.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

**1. Short title and commencement.**—This Act may be called the Protection of Human Rights (Amendment) Act, 2019.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Amendment of section 2.**—In the Protection of Human Rights Act, 1993 (10 of 1994) (hereinafter referred to as the principal Act), in section 2, in sub-section (1),—

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

‘(ba) “Chief Commissioner” means the Chief Commissioner for Persons with Disabilities referred to in sub-section (1) of section 74 of the Rights of Persons with Disabilities Act, 2016 (49 of 2016);’ ;

(ii) after clause (g), the following clause shall be inserted, namely:—

‘(ga) “National Commission for Backward Classes” means the National Commission for Backward Classes constituted under section 3 of the National Commission for Backward Classes Act, 1993 (27 of 1993);’;

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

‘(ha) “National Commission for Protection of Child Rights” means the National Commission for Protection of Child Rights constituted under section 3 of the Commissions for Protection of Child Rights Act, 2005 (4 of 2006);’.

**3. Amendment of section 3.**—In section 3 of the principal Act,—

(a) in sub-section (2),—

(i) in clause (a), for the words “Chief Justice”, the words “Chief Justice of India or a Judge” shall be substituted;

(ii) in clause (d), for the words “two Members”, the words “three Members, out of which at least one shall be a woman,” shall be substituted;

(b) in sub-section (3),—

(i) for the words “the National Commission for Minorities”, the words “the National Commission for Backward Classes, the National Commission for Minorities, the National Commission for Protection of Child Rights” shall be substituted;

(ii) for the words “and the National Commission for Women”, the words “the National Commission for Women and the Chief Commissioner for Persons with Disabilities” shall be substituted;

(c) in sub-section (4), for the portion beginning with “shall exercise such powers and discharge such functions” and ending with “as the case may be”, the following shall be substituted, namely:—

“shall, subject to control of the Chairperson, exercise all administrative and financial powers (except judicial functions and the power to make regulations under section 40B).”.

**4. Amendment of section 6.**—In section 6 of the principal Act,—

(i) in sub-section (1),—

(a) for the words “five years”, the words “three years” shall be substituted;

(b) after the words “whichever is earlier” occurring at the end, the words “and shall be eligible for re-appointment” shall be inserted;

(ii) in sub-section (2),—

(a) for the words “five years”, the words “three years” shall be substituted;

(b) the words “for another term of five years” shall be omitted.

**5. Amendment of section 21.**—In section 21 of the principal Act,—

(i) in sub-section (2), in clause (a), for the words “Chief Justice”, the words “Chief Justice or a Judge” shall be substituted;

(ii) in sub-section (3), for the words “shall exercise such powers and discharge such functions of the State Commission as it may delegate to him”, the words “shall, subject to control of the Chairperson, exercise all administrative and financial powers of the State Commission” shall be substituted;

(iii) after sub-section (6), the following sub-sections shall be inserted, namely:—

“(7) Subject to the provisions of section 12, the Central Government may, by order, confer upon the State Commission the functions relating to human rights being discharged by the Union Territories, other than the Union Territory of Delhi.

(8) The functions relating to human rights in case of Union Territory of Delhi shall be dealt with by the Commission.”.

**6. Amendment of section 24.**—In section 24 of the principal Act,—

(i) in sub-section (1),—

(a) for the words “five years”, the words “three years” shall be substituted;

(b) after the words “whichever is earlier” occurring at the end, the words “and shall be eligible for re-appointment” shall be inserted;

(ii) in sub-section (2),—

(a) for the words “five years”, the words “three years” shall be substituted;

(b) the words “for another term of five years” occurring at the end, shall be omitted.

Kerala Gazette No. 12 dated 23rd March 2021.

**PART I**

**Section i**



GOVERNMENT OF KERALA

**Law (Legislation-Publication) Department**

NOTIFICATION

No. 19090/Leg. Pbn. 2/2019/Law.

*Dated, Thiruvananthapuram, 23rd September, 2019.*

The following Acts of Parliament published in the Gazette of India, Extraordinary, Part II, Section I, dated 31st day of July, 2019 is hereby republished for general information. The Bills as passed by the House of Parliament received the assent of the President of India on the 31st day of July, 2019.

By order of the Governor,

ARAVINTHA BABU, P. K.,

*Law Secretary.*

THE MUSLIM WOMEN (PROTECTION OF RIGHTS ON MARRIAGE)  
ACT, 2019

(ACT No. 20 OF 2019)

AN

ACT

*to protect the rights of married Muslim women and to prohibit divorce by pronouncing talaq by their husbands and to provide for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Muslim Women (Protection of Rights on Marriage) Act, 2019.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 19th day of September, 2018.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) “electronic form” shall have the same meaning as assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(b) “Magistrate” means a Judicial Magistrate of the first class exercising jurisdiction under the Code of Criminal Procedure, 1973 (2 in the area where the married of 1974) Muslim woman resides; and

(c) “talaq” means talaq-e-biddat or any other similar form of talaq having the effect of instantaneous and irrevocable divorce pronounced by a Muslim husband.

CHAPTER II

DECLARATION OF TALAQ TO BE VOID AND ILLEGAL

3. *Talaq to be void and illegal.*—Any pronouncement of *talaq* by a Muslim husband upon his wife, by words, either spoken or written or in electronic form or in any other manner whatsoever, shall be *void* and illegal.

4. *Punishment for pronouncing talaq.*—Any Muslim husband who pronounces *talaq* referred to in section 3 upon his wife shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

## CHAPTER III

## PROTECTION OF RIGHTS OF MARRIED MUSLIM WOMEN

5. *Subsistence allowance.*—Without prejudice to the generality of the provisions contained in any other law for the time being in force, a married Muslim woman upon whom *talaq* is pronounced shall be entitled to receive from her husband such amount of subsistence allowance, for her and dependent children, as may be determined by the Magistrate.

6. *Custody of her minor children.*—Notwithstanding anything contained in any other law for the time being in force, a married Muslim woman shall be entitled to custody of her minor children in the event of pronouncement of *talaq* by her husband, in such manner as may be determined by the Magistrate.

7. *Offence to be cognizable, compoundable, etc.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) an offence punishable under this Act shall be cognizable, if information relating to the commission of the offence is given to an officer in charge of a police station by the married Muslim woman upon whom *talaq* is pronounced or any person related to her by blood or marriage;

(b) an offence punishable under this Act shall be compoundable, at the instance of the married Muslim woman upon whom *talaq* is pronounced with the permission of the Magistrate, on such terms and conditions as he may determine;

(c) no person accused of an offence punishable under this Act shall be released on bail unless the Magistrate, on an application filed by the accused and after hearing the married Muslim woman upon whom *talaq* is pronounced, is satisfied that there are reasonable grounds for granting bail to such person.

8. *Repeal and savings.*—(1) The Muslim Women (Protection of Rights on Marriage) Second Ordinance, 2019 (Ord. 4 of 2019) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Muslim Women (Protection of Rights on Marriage) Second Ordinance, 2019 (Ord. 4 of 2019), shall be deemed to have been done or taken under the provisions of this Act.





THE BANNING OF UNREGULATED DEPOSIT  
SCHEMES ACT, 2019

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

BANNING OF UNREGULATED DEPOSIT SCHEMES

3. Banning of Unregulated Deposit Schemes.
4. Fraudulent default in Regulated Deposit Schemes.
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THE FIRST SCHEDULE

THE SECOND SCHEDULE

## THE BANNING OF UNREGULATED DEPOSIT SCHEMES ACT, 2019

(ACT No. 21 OF 2019)

AN

ACT

*to provide for a comprehensive mechanism to ban the unregulated deposit schemes, other than deposits taken in the ordinary course of business, and to protect the interest of depositors and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Act may be called the Banning of Unregulated Deposit Schemes Act, 2019.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 21st day of February, 2019.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(1) “appropriate Government” means in respect of matters relating to,—

(i) the Union Territory without legislature, the Central Government;

(ii) the Union Territory of Puducherry, the Government of that Union Territory;

(iii) the Union Territory of Delhi, the Government of that Union Territory; and

(iv) the State, the State Government.

(2) “company” shall have the same meaning as assigned to it in clause (20) of section 2 of the Companies Act, 2013 (18 of 2013);

(3) “Competent Authority” means an Authority appointed by the appropriate Government under section 7;

(4) “deposit” means an amount of money received by way of an advance or loan or in any other form, by any deposit taker with a promise to return whether after a specified period or otherwise, either in cash or in kind or in the form of a specified service, with or without any benefit in the form of interest, bonus, profit or in any other form, but does not include—

(a) amounts received as loan from a scheduled bank or a co-operative bank or any other banking company as defined in section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(b) amounts received as loan or financial assistance from the Public Financial Institutions notified by the Central Government in consultation with the Reserve Bank of India or any non-banking financial company as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934) and is registered with the Reserve Bank of India or any Regional Financial Institutions or insurance companies;

(c) amounts received from the appropriate Government, or any amount received from any other source whose repayment is guaranteed by the appropriate Government, or any amount received from a statutory authority constituted under an Act of Parliament or a State Legislature;

(d) amounts received from foreign Governments, foreign or international banks, multilateral financial institutions, foreign Government owned development financial institutions, foreign export credit collaborators, foreign bodies corporate, foreign citizens, foreign authorities or person resident outside India, subject to the provisions of the Foreign Exchange Management Act, 1999 (42 of 1999) and the rules and regulations made thereunder;

(e) amounts received by way of contributions towards the capital by partners of any partnership firm or a limited liability partnership;

(f) amounts received by an individual by way of loan from his relatives or amounts received by any firm by way of loan from the relatives of any of its partners;

(g) amounts received as credit by a buyer from a seller on the sale of any property (whether movable or immovable);

(h) amounts received by an asset re-construction company which is registered with the Reserve Bank of India under section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interests Act, 2002 (54 of 2002);

(i) any deposit made under section 34 or an amount accepted by a political party under section 29B of the Representation of the People Act, 1951 (43 of 1951);

(j) any periodic payment made by the members of the self-help groups operating within such ceilings as may be prescribed by the State Government or Union Territory Government;

(k) any other amount collected for such purpose and within such ceilings as may be prescribed by the State Government;

(l) an amount received in the course of, or for the purpose of, business and bearing a genuine connection to such business including,—

(i) payment, advance or part payment for the supply or hire of goods or provision of services and is repayable in the event the goods or services are not in fact sold, hired or otherwise provided;

(ii) advance received in connection with consideration of an immovable property under an agreement or arrangement subject to the condition that such advance is adjusted against such immovable property as specified in terms of the agreement or arrangement;

(iii) security or dealership deposited for the performance of the contract for supply of goods or provision of services; or

(iv) an advance under the long-term projects for supply of capital goods except those specified in item (ii):

Provided that if the amounts received under items (i) to (iv) become refundable, such amounts shall be deemed to be deposits on the expiry of fifteen days from the date on which they become due for refund:

Provided further that where the said amounts become refundable, due to the deposit taker not obtaining necessary permission or approval under the law for the time being in force, wherever required, to deal in the goods or properties or services for which money is taken, such amounts shall be deemed to be deposits.

*Explanation.*—For the purposes of this clause,—

(i) in respect of a company, the expression “deposit” shall have the same meaning as assigned to it under the Companies Act, 2013 (18 of 2013);

(ii) in respect of a non-banking financial company registered under the Reserve Bank of India Act, 1934 (2 of 1934), the expression “deposit” shall have the same meaning as assigned to it in clause (bb) of Section 45-I of the said Act;

(iii) the expressions “partner” and “firm” shall have the meanings as respectively assigned to them under the Indian Partnership Act, 1932 (9 of 1932);

(iv) the expression “partner” in respect of a limited liability partnership shall have the same meaning as assigned to it in clause (q) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009);

(v) the expression “relative” shall have the same meaning as assigned to it in the Companies Act, 2013 (18 of 2013);

(5) “depositor” means any person who makes a deposit under this Act;

(6) “deposit taker” means,—

(i) any individual or group of individuals;

(ii) a proprietorship concern;

(iii) a partnership firm (whether registered or not);

(iv) a limited liability partnership registered under the Limited Liability Partnership Act, 2008 (6 of 2009);

(v) a company;

(vi) an association of persons;

(vii) a trust [being a private trust governed under the provisions of the Indian Trusts Act, 1882 (2 of 1882) or a public trust, whether registered or not];

(viii) a co-operative society or a multi-State co-operative society; or

(ix) any other arrangement of whatsoever nature, receiving or soliciting deposits, but does not include,—

(i) a Corporation incorporated under an Act of Parliament or a State Legislature;

(ii) a banking company, a corresponding new bank, the State Bank of India, a subsidiary bank, a regional rural bank, a co-operative bank or a multi-State co-operative bank as defined in the Banking Regulation Act, 1949 (10 of 1949);

(7) “Designated Court” means a Designated Court constituted by the appropriate Government under section 8;

(8) “insurer” shall have the same meaning as assigned to it in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938);

(9) “notification” means a notification published in the Official Gazette and the expression “notify” shall be construed accordingly;

(10) “Person” includes,—

- (i) an individual;
- (ii) a Hindu Undivided Family;
- (iii) a company;
- (iv) a trust;
- (v) a partnership firm;
- (vi) a limited liability partnership;
- (vii) an association of persons;
- (viii) a co-operative society registered under any law for the time being in force relating to co-operative societies; or
- (ix) every artificial juridical person, not falling within any of the preceding sub clauses;

(11) “prescribed” means prescribed by the rules made by the Central Government or, as the case may be, the State Government under this Act;

(12) “property” means any property or assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and includes deeds and instruments evidencing title to, or interest in, such property or assets, wherever located;

(13) “public financial institution” shall have the same meaning as assigned to it in clause (72) of section 2 of the Companies Act, 2013 (18 of 2013);



(14) “Regulated Deposit Scheme” means the Schemes specified under column (3) of the First Schedule;

(15) “Regulator” means the Regulator specified in column (2) of the First Schedule;

(16) “Schedule” means the Schedule appended to this Act;

(17) “Unregulated Deposit Scheme” means a Scheme or an arrangement under which deposits are accepted or solicited by any deposit taker by way of business and which is not a Regulated Deposit Scheme, as specified under column (3) of the First Schedule.

## CHAPTER II

### BANNING OF UNREGULATED DEPOSIT SCHEMES

**3. *Banning Unregulated Deposit Schemes.***—On and from the date of commencement of this Act,—

(a) the Unregulated Deposit Schemes shall be banned; and

(b) no deposit taker shall, directly or indirectly, promote, operate, issue any advertisement soliciting participation or enrolment in or accept deposits in pursuance of an Unregulated Deposit Scheme.

**4. *Fraudulent default in Regulated Deposit Schemes.***—No deposit taker, while accepting deposits pursuant to a Regulated Deposit Scheme, shall commit any fraudulent default in the repayment or return of deposit on maturity or in rendering any specified service promised against such deposit.

**5. *Wrongful inducement in relation to Unregulated Deposit Scheme.***—No person by whatever name called shall knowingly make any statement, promise or forecast which is false, deceptive or misleading in material facts or deliberately conceal any material facts, to induce another person to invest in, or become a member or participant of any Unregulated Deposit Scheme.

**6. *Certain scheme to be Unregulated Deposit Scheme.***— A prize chit or a money circulation scheme banned under the provisions of the Prize Chits and Money Circulation Scheme (Banning) Act, 1978 (43 of 1978) shall be deemed to be an Unregulated Deposit Scheme under this Act.

CHAPTER III  
AUTHORITIES

7. *Competent Authority*.—(1) The appropriate Government shall, by notification, appoint one or more officers not below the rank of Secretary to that Government, as the Competent Authority for the purposes of this Act.

(2) The appropriate Government may, by notification, appoint such other officer or officers as it thinks fit, to assist the Competent Authority in discharging its functions under this Act.

(3) Where the Competent Authority or officers appointed under sub-section (2), for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of such information and particulars as may be prescribed, that any deposit taker is soliciting deposits in contravention of section 3, he may, by an order in writing, provisionally attach the deposits held by the deposit taker and the money or other property acquired either in the name of the deposit taker or in the name of any other person on behalf of the deposit taker from the date of the order, in such manner as may be prescribed.

(4) The Competent Authority shall, for the purposes of sub-section (3), have the same powers as vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while conducting investigation or inquiry in respect of the following matters, namely:—

- (a) discovery and inspection;
  - (b) enforcing the attendance of any person, including any officer of a reporting entity and examining him on oath;
  - (c) compelling the production of records;
  - (d) receiving evidence on affidavits;
  - (e) issuing commissions for examination of witnesses and documents;
- and
- (f) any other matter which may be prescribed.

(5) The Competent Authority shall have power to summon any person whose attendance he considers necessary whether to give evidence or to produce any records during the course of any investigation or proceeding under this section.

(6) All the persons so summoned shall be bound to attend in person or through authorised agents, as such officer may direct, and shall be bound to state the truth upon any subject respecting which they are examined or make statements, and produce such documents as may be required.

(7) Every proceeding under sub-sections (4) and (5) shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).

(8) Subject to any rules made in this behalf by the Central Government, any officer referred to in sub-section (2) may impound and retain in his custody for such period, as he thinks fit, any records produced before him in any proceedings under this Act:

Provided that the officer or officers referred to in sub-section (2) shall not,—

(a) impound any records without recording his reasons for so doing; or

(b) retain in his custody any such records for a period exceeding three months, without obtaining the previous approval of the Competent Authority.

**8. Designated Court.**—The appropriate Government shall, with the concurrence of the Chief Justice of the concerned High Court, by notification, constitute one or more Courts known as the Designated Courts for such area or areas or such case or cases as may be specified in such notification, which shall be presided over by a Judge not below the rank of a District and Sessions Judge or Additional District and Sessions Judge.

(2) No Court other than the Designated Court shall have jurisdiction in respect of any matter to which the provisions of this Act apply.

(3) When trying an offence under this Act, the Designated Court may also try an offence, other than an offence under this Act, with which the accused may, under the Code of Criminal Procedure, 1973 (2 of 1974) be charged at the same trial.

## CHAPTER IV

## INFORMATION ON DEPOSIT TAKERS

**9. Central database.**—(1) The Central Government may designate an authority, whether existing or to be constituted, which shall create, maintain and operate an online database for information on deposit takers operating in India.

(2) The authority designated under sub-section (1) may require any Regulator or the Competent Authority to share such information on deposit takers, as may be prescribed.

**10. Information of business by deposit taker.**—(1) Every deposit taker which commences or carries on its business as such on or after the commencement of this Act shall intimate the authority referred to in sub-section (1) of section 9 about its business in such form and manner and within such timer as may be prescribed.

(2) The Competent Authority may, if it has reason to believe that the deposits are being solicited or accepted pursuant to an Unregulated Deposit Scheme, direct any deposit taker to furnish such statements, information or particulars, as it considers necessary, relating to or connected with the deposits received by such deposit taker.

*Explanation.*—For the removal of doubts, it is hereby clarified that—

(a) the requirement of intimation under sub-section (1) is applicable to deposit takers accepting or soliciting deposits as defined in clause (4) of section 2; and

(b) the requirement of intimation under sub-section (1) applies to a company, if the company accepts the deposits under Chapter V of the Companies Act, 2013 (18 of 2013).

**11. Information to be shared.**—(1) The Competent Authority shall share all information received under section 29 with the Central Bureau of Investigation and with the authority which may be designated by the Central Government under section 9.

(2) The appropriate Government, any Regulator, income-tax authorities or any other investigation agency, having any information or documents in respect of the offence investigated under this Act by the police or the Central Bureau of Investigation, shall share all such information or documents with the police or the Central Bureau of Investigation.

(3) Where the principal officer of any banking company, a corresponding new bank, the State Bank of India, a subsidiary bank, a regional rural bank, a co-operative bank or a multi-State co-operative bank has reason to believe that any client is a deposit taker and is acting in contravention to the provisions of this Act, he shall forthwith inform the same to the Competent Authority.

## CHAPTER V

### RESTITUTION TO DEPOSITORS

**12. Priority of depositors' claim.**—Save as otherwise provided in the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002) or the Insolvency and Bankruptcy Code, 2016 (31 of 2016), any amount due to depositors from a deposit taker shall be paid in priority over all other debts and all revenues, taxes, cesses and other rates payable to the appropriate Government or the local authority.

**13. Precedence of attachment.**—(1) Save as otherwise provided in the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002) or the Insolvency and Bankruptcy Code, 2016 (31 of 2016), an order of provisional attachment passed by the Competent Authority, shall have precedence and priority, to the extent of the claims of the depositors, over any other attachment by any authority competent to attach property for repayment of any debts, revenues, taxes, cesses and other rates payable to the appropriate Government or the local authority.

(2) Where an order of provisional attachment has been passed by the Competent Authority—

(a) such attachment shall continue until an order is passed under sub-section (3) or sub-section (5) of section 15 by the Designated Court;

(b) all the attached money or property of the deposit taker and the persons mentioned therein shall vest in the Competent Authority and shall remain so vested till further order of the Designated Court.

(3) The Competent Authority shall open an account in a scheduled bank for the purpose of crediting and dealing with the money realised under this Act, which shall not be utilised except under the instructions of the Designated Court.

(4) The Competent Authority shall not dispose of or alienate the property or money attached, except in accordance with the order of the Designated Court under sub-section (3) or sub-section (5) of section 15.

(5) Notwithstanding anything contained in sub-section (4), the Competent Authority may, if it thinks it expedient, order the immediate sale of perishable items or assets, and the proceeds of the sale shall be utilised in the same manner as provided for other property.

**14. Application for confirmation of attachment and sale of property.—**

(1) The Competent Authority shall, within a period of thirty days, which may extend up to sixty days, for reasons to be recorded in writing, from the date of the order of provisional attachment, file an application with such particulars as may be prescribed, before the Designated Court for making the provisional attachment absolute, and for permission to sell the property so attached by public auction or, if necessary, by private sale.

(2) In case where the money or property has been attached on the permission granted by a Designated Court in another State or Union territory, the application for confirmation of such attachment shall be filed in that Court.

**15. Confirmation of attachment by Designated Court.—**(1) Upon receipt of an application under section 14, the Designated Court shall issue notice to—

(a) the deposit taker; and

(b) any person whose property is attached under section 14,

to show cause, within a period of thirty days from the date of issue of notice, as to why the order of attachment should not be made absolute and the properties so attached be sold.

(2) The Designated Court shall also issue notice to all other persons represented to it as having or being likely to claim any interest or title in the property, to appear on the same date as persons referred to in sub-section (1) to raise objections, if they so desire, to the attachment of the property.

(3) The Designated Court shall, after adopting such procedure as may be prescribed, pass an order—

(a) making the provisional order of attachment absolute; or

(b) varying it by releasing a portion of the property from attachment; or

(c) cancelling the provisional order of attachment,

and in case of an order under clause (a) or clause (b), direct the Competent Authority to sell the property so attached by public auction or, if necessary, by private sale and realise the sale proceeds.

(4) The Designated Court shall not, in varying or cancelling the provisional order of attachment, release any property from attachment, unless it is satisfied that—

(a) the deposit taker or the person referred to in sub-section (1) has interest in such property; and

(b) there shall remain an amount or property sufficient for repayment to the depositors of such deposit taker.

(5) The Designated Court shall pass such order or issue such direction as may be necessary for the equitable distribution among the depositors of the money attached or realised out of the sale.

(6) The Designated Court shall endeavour to complete the proceedings under this section within a period of one hundred and eighty days from the date of receipt of the application referred to in sub-section (1).

**16. Attachment of property of mala fide transferees.**—(1) Where the Designated Court is satisfied that there is a reasonable cause for believing that the deposit taker has transferred any property otherwise than in good faith and not for commensurate consideration, it may, by notice, require any transferee of such property, whether or not he received the property directly from the said deposit taker, to appear on a date to be specified in the notice and show cause why so much of the transferee's property as is equivalent to the proper value of the property transferred should not be attached.

(2) Where the said transferee does not appear and show cause on the specified date or where the Designated Court is satisfied that the transfer of the property to the said transferee was not a *bona fide* transfer and not for commensurate consideration, it shall order the attachment of so much of the said transferee's property as in its opinion is equivalent to the proper value of the property transferred.

**17. Payment in lieu of attachment.**—(1) Any deposit taker or a person referred to in sub-section (1) of section 15, or transferee referred to in section 16 whose property is about to be attached or has been provisionally attached under this Act, may, at any time before the confirmation of attachment, apply to the Designated Court for permission to deposit the fair value of the property in lieu of attachment.

(2) While allowing the deposit taker or person or transferee referred to in sub-section (1) to make the deposit under sub-section (1), the Designated Court may order such deposit taker or person or transferee to pay any sum towards costs as may be applicable.

**18. Powers of Designated Court.**—(1) The Designated Court shall exercise the following powers, namely:—

(a) power to approve the statement of dues of the deposit taker due from various debtors;

(b) power to assess the value of the assets of the deposit taker and finalise the list of the depositors and their respective dues;

(c) power to direct the Competent Authority to take possession of any assets belonging to or in the control of the deposit taker and to sell, transfer or realise the attached assets, either by public auction or by private sale as it deems fit depending upon the nature of assets and credit the sale proceeds thereof to its bank account;

(d) power to approve the necessary expenditure to be incurred by the Competent Authority for taking possession and realisation of the assets of the deposit taker;

(e) power to pass an order for full payment to the depositors by the Competent Authority or an order for proportionate payment to the depositors in the event, the money so realised is not sufficient to meet the entire deposit liability;

(f) power to direct any person, who has made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention; and

(g) power to pass any other order which the Designated Court deems fit for realisation of assets of the deposit taker and for repayment of the same to the depositors of such deposit taker or on any other matter or issue incidental thereto.

(2) On the application of any person interested in any property attached and vested in the Competent Authority under this Act and after giving such Competent Authority an opportunity of being heard, make such order as the Designated Court considers just and reasonable for—



(a) providing from such of the property attached and vested in the Competent Authority as the applicant claims an interest in, such sums as may be reasonably necessary for the maintenance of the applicant a of his family, and for expenses connected with the defence of the applicant where criminal proceedings have been initiated against him in the Designated Court under this Act; or

(b) safeguarding, so far as may be practicable, the interest of any business affected by the attachment.

*Explanation.*—For the purposes of this section, the expression “deposit taker” includes the directors, promoters, managers or members of said establishment or any other person whose property or assets have been attached under this Act.

**19. Appeal to High Court.**—Any person including the Competent Authority, if aggrieved by any final order of the Designated Court under this Chapter, may appeal to the High Court, within a period of sixty days from the date of such order:

Provided that the High Court may entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellants was prevented by sufficient cause from preferring the appeal in time.

*Explanation.*—The expression “High Court” means the High Court of a State or Union Territory where the Designated Court is situated.

**20. Power of Supreme Court to transfer cases.**—(1) Whenever it is made to appear to the Supreme Court that there is a default in any deposit scheme or deposit schemes of the nature referred to in section 30, the Supreme Court may, by an order, direct that any particular case be transferred from one Designated Court to another Designated Court.

(2) The Supreme Court may act under this section only on an application filed by the Competent Authority or any interested party, and every such application shall be supported by an affidavit.

(3) Where an application for the exercise of the powers conferred by this section is dismissed, the Supreme Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding fifty thousand rupees as it may consider appropriate in the circumstances of the case.

## CHAPTER VI

## OFFENCES AND PUNISHMENTS

**21. Punishment for contravention of section 3.**—(1) Any deposit taker who solicits deposits in contravention of section 3 shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than two lakh rupees but which may extend to ten lakh rupees.

(2) Any deposit taker who accepts deposits in contravention of section 3 shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine which shall not be less than three lakh rupees but which may extend to ten lakh rupees.

(3) Any deposit taker who accepts deposits in contravention of section 3 and fraudulently defaults in repayment of such deposits or in rendering any specified service, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to ten years and with fine which shall not be less than five lakh rupees but which may extend to twice the amount of aggregate funds collected from the subscribers, members or participants in the Unregulated Deposit Scheme.

*Explanation.*—For the purposes of this Act,—

(i) the expression “fraudulently” shall have the same meaning as assigned to it in section 25 of the Indian Penal Code (45 of 1860);

(ii) where the terms of the Deposit Scheme are entirely impracticable or unviable, the terms shall be relevant facts showing an intention to defraud.

**22. Punishment for contravention of section 4.**—Any deposit taker who contravenes the provisions of section 4 shall be punishable with imprisonment for a term which may extend to seven years, or with fine which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of the fraudulent default referred to in said section, whichever is higher, or with both.

**23. Punishment for contravention of section 5.**—Any person who contravenes the provisions of section 5 shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which may extend to ten lakh rupees.

**24. Punishment for repeat offenders.**—Whoever having been previously convicted of an offence punishable under this Chapter, except the offence under section 26, is subsequently convicted of an offence shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to ten years and with fine which shall not be less than ten lakh rupees but which may extend to fifty crore rupees.

**25. Offences by deposit takers other than individuals.**—(1) Where an offence under this Act has been committed by a deposit taker other than an individual, every person who, at the time the offence was committed, was in charge of, and was responsible to, the deposit taker for the conduct of its business, as well as the deposit taker, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Nothing contained in sub-section (1) shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a deposit taker other than an individual, and it is proved that the offence—

(a) has been committed with the consent or connivance of; or

(b) is attributable to any neglect on the part of any director, manager, secretary, promoter, partner, employee or other officer of the deposit taker,

such person shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**26. Punishment for contravention of section 10.**—Whoever fails to give the intimation required under sub-section (1) of section 10 or fails to furnish any such statements, information or particulars as required under sub-section (2) of that section, shall be punishable with fine which may extend to five lakh rupees.

**27. Cognizance of offences.**—Notwithstanding anything contained in section 4, no Designated Court shall take cognizance of an offence punishable under that section except upon a complaint made by the Regulator:

Provided that the provisions of section 4 and this section shall not apply in relation to a deposit taker which is a company.

## CHAPTER VII

## INVESTIGATION, SEARCH AND SEIZURE

**28. Offences to be cognizable and non-bailable.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) every offence punishable under this Act, except the offence under section 22 and section 26, shall be cognizable and non-bailable.

**29. Competent Authority to be informed of offences.**—The police officer shall, on recording information about the commission of an offence under this Act, inform the same to the Competent Authority.

**30. Investigation of offences by Central Bureau of Investigation.**—(1) On receipt of information under section 29 or otherwise, if the Competent of Authority has reason to believe that the offence relates to a deposit scheme or deposit schemes in which—

(a) the depositors, deposit takers or properties involved are located in more than one State or Union Territory in India or outside India; and

(b) the total value of the amount involved is of such magnitude as to significantly affect the public interest,

the Competent Authority shall refer the matter to the Central Government for investigation by the Central Bureau of Investigation.

(2) The reference made by the Competent Authority under sub-section (1) shall be deemed to be with the consent of the State Government under section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946);

(3) On the receipt of the reference under sub-section (1), the Central Government may transfer the investigation of the offence to the Central Bureau of Investigation under section 5 of the Delhi Special Police Establishment Act, 1946 (25 of 1946).

**31. Power to enter, search and seize without warrant.**—(1) Whenever any police officer, not below the rank of an officer in-charge of a police station, has reason to believe that anything necessary for the purpose of an investigation into any offence under this Act may be found in any place within the limits of the police station of which he is in-charge, or to which he is attached, such

officer may, with the written authorisation of an officer not below the rank of Superintendent of Police, and after recording in writing so far as possible, the thing for which the search is to be made and subject to the rules made in this behalf, authorise any officer subordinate to him,—

(a) to enter and search any building, conveyance or place, between sunrise and sunset, which he has reason to suspect is being used for purposes connected with the promotion or conduct of any deposit taking scheme or arrangement in contravention of the provisions of this Act;

(b) in case of resistance, to break open any door and remove any obstacle to such entry, if necessary by force, with such assistance as he considers necessary, for exercising the powers conferred by clause (a);

(c) to seize any record or property found as a result of the search in the said building, conveyance or place, which are intended to be used, or reasonably suspected to have been used, in connection with any such deposit taking scheme or arrangement in contravention of the provisions of this Act; and

(d) to detain and search, and if he thinks proper, take into custody and produce before any Designated Court any such person whom he has reason to believe to have committed any offence punishable under this Act:

Provided that if such officer has reason to believe that the said written authorisation cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may, without the said written authorisation, enter and search such building, conveyance or place, at any time between sunset and sunrise after recording the grounds in writing.

(2) Where it is not practicable to seize the record or property, the officer authorised under sub-section (1), may make an order in writing to freeze such property, account, deposits or valuable securities maintained by any deposit taker about which a complaint has been made or credible information has been received or a reasonable suspicion exists of their having been connected with the promotion or conduct of any deposit taking scheme or arrangement in contravention of the provisions of this Act and it shall be binding on the concerned bank or financial or market establishment to comply with the said order:

Provided that no bank or financial or market establishment shall freeze such account, deposit or valuable securities, for a period beyond thirty days unless the same is authorised by the order of the Designated Court:

Provided further that, if at any time, it becomes practicable to seize the frozen property, the officer authorised under sub-section (1) may seize such property.

*Explanation.*—For the purposes of this section, the expressions,—

(i) “freezing of account” shall mean that no transaction, whether deposit or withdrawal shall be allowed in the said account; and

(ii) “freezing of property” shall mean that no transfer, conversion, disposition or movement of property shall be allowed.

(3) Where an officer takes down any information in writing or records grounds for his belief or makes an order in writing under sub-section (1) or sub-section (2), he shall, within a time of seventy-two hours send a copy thereof to the Designated Court in a sealed envelope and the owner or occupier of the building, conveyance or place shall, on application, be furnished, free of cost, with a copy of the same by the Designated Court.

(4) All searches, seizures and arrests under this section shall be made in accordance with the provisions of the code of Criminal Procedure, 1973 (2 of 1974).

**32. Application of Code of Criminal Procedure, 1973 to proceedings before Designated Court.**—(1) The Designated Court may take cognizance of offences under this Act without the accused being committed to it for trial.

(2) Save as otherwise provided in section 31, the provisions of the Code of Criminal Procedure, 1974 (2 of 1974) shall apply—

(a) to all arrests, searches and seizures made under this Act;

(b) to the proceedings under this Act and for the purposes of the said provisions, the Designated Court shall be deemed to be a Court of Session and the persons conducting the prosecution before the Designated Court, shall be deemed to be Public Prosecutors.

CHAPTER VIII  
MISCELLANEOUS

**33. *Publication of advertisement of Unregulated Deposit Scheme.***—Where any newspaper or other publication of any nature, contains any statement, information or advertisement promoting, soliciting deposits for, or inducing any person to become a member of any Unregulated Deposit Scheme, the appropriate Government may direct such newspaper or publication to publish a full and fair retraction, free of cost, in the same manner and in the same position in such newspaper or publication as may be prescribed.

**34. *Act to have overriding effect.***—Save as otherwise expressly provided in this Act, the provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force, including any law made by any State or Union Territory.

**35. *Application of other laws not barred.***—The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

**36. *Protection of action taken in good faith.***— No suit, prosecution or other legal proceedings shall lie against the appropriate Government or the Competent Authority or any officer of the appropriate Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

**37. *Power of Central Government to make rules.***—(1) The Central Government may, by notification, 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 all or any of the following matters, namely:—

(a) the information and other particulars to be taken into consideration before issuing an order, and the manner of attachment, under sub-section (3) of section 7;

(b) the information to be shared under sub-section (2) of section 9;

(c) the form and manner in which and the time within which the intimation shall be given under sub-section (1) of section 10;

(d) the particulars contained in the application to be filed by the Competent Authority before the Designated Court under sub-section (1) of section 14;

(e) the procedure to be adopted by the Designated Court before issuing an order under sub-section (3) of section 15;

(f) rules under sub-section (1) of section 31;

(g) the manner of publication of advertisement under section 33; and

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

**38. Power of State Government etc., to make rules.**—(1) The State Government or Union Territory Government, as the case may be, in consultation with the Central Government, by notification, 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 all or any of the following matters, namely:—

(a) ceiling for self-help groups under clause (j) of sub-section (4) of section 2;

(b) purpose and ceiling under clause (k) of sub-section (4) of section 2;

(c) the manner of provisional attachment of property by the Competent Authority under sub-section (3) of section 7;

(d) other matters under clause (f) of sub-section (4) of section 7;

(e) the rules relating to impounding and custody of records under sub-section (8) of section 7; and

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

**39. Laying of rules.**—(1) Every rule made by the Central Government 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.

(2) Every rule made by a State Government or the Union Territory Government, as the case may be, shall be laid, as soon as may be after it is made, before each House of the State Legislature or the Union Territory Legislature, as the case may be, where it consists of two Houses, or where such Legislature consists of one House, before that House.

**40. Power to amend First Schedule.**—(1) The Central Government may, having regard to the objects of this Act, and if it considers necessary or expedient so to do, by notification, add to, or as the case may be, omit from the First Schedule, any scheme or arrangement, and on such addition, or omission, such scheme or arrangement shall become, or cease to be, a Regulated Deposit Scheme, as the case may be.

(2) A copy of every notification issued under this section shall, as soon as may be after it has been issued, be laid before each House of Parliament.

**41. Act not to apply certain deposits.**—The provisions of this Act shall not apply to deposits taken in the ordinary course of business.

**42. Amendment to certain enactments.**—The enactments specified in the Second Schedule shall be amended in the manner specified therein.

**43. Power to remove difficulties.**—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

**44. Repeal and saving.**—(1) The Banning of Unregulated Deposit Schemes Ordinance, 2019 (Ord. 7 of 2019), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under this Act.

## THE FIRST SCHEDULE

[See Section 2 (15)]

## REGULATED DEPOSIT SCHEMES

(1) The Regulator and Regulated Deposit Scheme refers to the regulators and schemes and arrangements listed in the following Table, namely:—

TABLE

<i>Sl. No.</i>	<i>Regulator</i>	<i>Regulated Deposit Scheme</i>
(1)	(2)	(3)
1	The Securities and Exchange Board of India	<p>(i) Any scheme or an arrangement [as defined under section 11AA of the Securities and Exchange Board of India Act, 1992 (15 of 1992)] launched, sponsored or carried out by a Collective Investment Management Company registered with the Securities and Exchange Board of India under the Securities and Exchange Board of India (Collective Investment Scheme) Regulations, 1999.</p> <p>(ii) Any scheme or an arrangement registered with the Securities and Exchange Board of India under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012.</p> <p>(iii) Any scheme or an arrangement, pursuant to which funds are managed by a portfolio manager, registered under the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993.</p> <p>(iv) Any scheme or an arrangement regulated under the Securities and Exchange Board of India (Share Based Employee Benefits) Regulations, 2014 or providing for employee benefits as permitted under the Companies Act, 2013 (18 of 2013).</p>

(1)	(2)	(3)
		<p>(v) Any other scheme or an arrangement registered under the Securities and Exchange Board of India Act, 1992 (15 of 1992), or the regulations made thereunder.</p> <p>(vi) Any amount received as contributions in the nature of subscriptions to a mutual fund registered with Securities and Exchange Board of India under the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996.</p>
2	The Reserve Bank of India	<p>(i) Any scheme under which deposits are accepted by Non-Banking Financial Companies as defined in clause (f) of section 45-1 of the Reserve Bank of India Act, 1934 (2 of 1934) and registered with the Reserve Bank of India; or any other scheme or an arrangement registered under the Reserve Bank of India Act, 1934.</p> <p>(ii) Any scheme or an arrangement under which funds are accepted by individuals or entities engaged as Business Correspondents and Facilitators by banks subject to the guidelines and circulars issued by the Reserve Bank of India from time to time.</p> <p>(iii) Any scheme or an arrangement under which funds are received by a system provider operating as an authorised payment system under the Payment and Settlement Systems Act, 2007 (51 of 2007).</p> <p>(iv) Any other scheme or an arrangement regulated under the Reserve Bank of India Act, 1934 (2 of 1934), or the guidelines or circulars of the Reserve Bank of India.</p>

(1)	(2)	(3)
3	The Insurance Regulatory and Development Authority of India	A contract of insurance pursuant to a certificate of registration obtained in accordance with the Insurance Act, 1938 (4 of 1938).
4	The State Government or Union territory Government	<p>(i) Any scheme or an arrangement made or offered by a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912) or a society being a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State or Union territory.</p> <p>(ii) Any scheme or an arrangement commenced or conducted as a chit business with the previous sanction of the State Government in accordance with the provisions of the Chit Funds Act, 1982 (40 of 1982).</p> <p>(iii) Any scheme or an arrangement regulated by any enactment relating to money lending which is for the time being in force in any State or Union territory.</p> <p>(iv) Any scheme or an arrangement by a prize chit or money circulation scheme under section 11 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 (43 of 1978).</p>
5	The National Housing Bank	Any scheme or an arrangement for acceptance of deposits registered under the National Housing Bank Act, 1987 (53 of 1987).

(1)	(2)	(3)
6	The Pension Fund Regulatory and Development Authority	Any scheme or an arrangement under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013).
7	The Employees' Provident Fund Organisation	Any scheme, Pension Scheme or Insurance Scheme framed under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952).
8	The Central Registrar, Multi-State Co-operative Societies	Any scheme or an arrangement for acceptance of deposits from voting members by a Multi-State Co-operative Society registered under the Multi-State Co-operative Societies Act, 2002 (39 of 2002).
9	The Ministry of Corporate Affairs, Government of India	(i) Deposits accepted or permitted under the provisions of Chapter V of the Companies Act, 2013 (18 of 2013).  (ii) Any scheme or an arrangement under which deposits are accepted by a company declared as a Nidhi or a Mutual Benefit Society under section 406 of the Companies Act, 2013 (18 of 2013).

(2) The following shall also be treated as Regulated Deposit Schemes under this Act, namely:—

(a) deposits accepted under any scheme or an arrangement registered with any regulatory body in India constituted or established under a statute; and

(b) any other scheme as may be notified by the Central Government under this Act.

## THE SECOND SCHEDULE

(See Section 42)

## AMENDMENTS TO CERTAIN ENACTMENTS

## PART I

## AMENDMENT TO THE RESERVE BANK OF INDIA ACT, 1934

*Amendment of section 45-I of Act 2 of 1934.*—In the Reserve Bank of India Act, 1934, in section 45-I, in clause (bb), after *Explanation II*, the following *Explanation* shall be inserted, namely:—

“*Explanation III.*—The amounts accepted by a co-operative society from the members or shareholders, by whatever name called, but excluding the amounts received as share capital, shall be deemed to be deposits for the purposes of this clause, if such members or shareholders are nominal or associate members, by whatever name called, who do not have full voting rights in the meetings of such co-operative society.”.

## PART II

## AMENDMENTS TO THE SECURITIES AND EXCHANGE

## BOARD OF INDIA ACT, 1992

*Amendment of section 11 of Act 15 of 1992.*—In the Securities and Exchange Board of India Act, 1992,—

(i) in section 11, in sub-section (4), for clause (e), the following clause shall be substituted, namely:—

“(e) attach, for a period not exceeding ninety days, bank accounts or other property of any intermediary or any person associated with the securities market in any manner involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder:

Provided that the Board shall, within ninety days of the said attachment, obtain confirmation of the said attachment from the Special Court, established under section 26A, having jurisdiction and on such confirmation, such attachment shall continue during the pendency of the aforesaid proceedings and on conclusion of the said proceedings, the provisions of section 28A shall apply:

Provided further that only property, bank account or accounts or any transaction entered therein, so far as it relates to the proceeds actually involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder shall be allowed to be attached.”;

(ii) in section 28A, after Explanation 3, the following Explanation shall be inserted, namely:—

“*Explanation 4.*—The interest referred to in section 220 of the Income tax Act, 1961 (43 of 1961) shall commence from the date the amount became payable by the person.”.

### PART III

#### AMENDMENT TO THE MULTI-STATE CO-OPERATIVE SOCIETIES ACT, 2002

*Amendment of section 67 of Act 39 of 2002.*—In the Multi-State Co-operative Societies Act, 2002, in section 67, in sub-section (1),—

(a) after the words “receive deposits”, the words “from its voting members” shall be inserted;

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

“*Explanation.*—For the removal of doubts, it is hereby clarified that a multi-State co-operative society shall not be entitled to receive deposits from persons other than voting members.”.





THE COMPANIES (AMENDMENT) ACT, 2019

(ACT NO. 22 OF 2019)

AN

ACT

*further to amend the Companies Act, 2013.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

**1. Short title and commencement.**—(1) This Act may be called the Companies (Amendment) Act, 2019.

(2) The provisions of this Act, except sections 6, 7 and 8, clauses (i), (iii) and clause (iv) of section 14, sections 20 and 21, section 31, sections 33, 34 and 35, sections 37 and 38 shall be deemed to have come into force on the 2nd day of November, 2018.

(3) The provisions of sections 6, 7 and 8, clauses (i), (iii) and clause (iv) of section 14, sections 20 and 21, section 31, sections 33, 34 and 35, sections 37 and 38 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for these provisions and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

**2. Amendment of section 2.**—In section 2 of the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the principal Act), in clause (41),—

(a) for the first proviso, the following provisos shall be substituted, namely:—

“Provided that where a company or body corporate, which is a holding company or a subsidiary or associate company of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Central Government may, on an application made by that company or body corporate in such form and manner as may be prescribed, allow any period as its financial year, whether or not that period is a year:

Provided further that any application pending before the Tribunal as on the date of commencement of the Companies (Amendment) Act, 2019, shall be disposed of by the Tribunal in accordance with the provisions applicable to it before such commencement.”;

(b) in the second proviso, for the words “Provided further that”, the words “Provided also that” shall be substituted.

**3. Insertion of new section 10A.**—After section 10 of the principal Act, the following section shall be inserted, namely:—

“10A. *Commencement of business, etc.*—(1) A company incorporated after the commencement of the Companies (Amendment) Act, 2019 and having a share capital shall not commence any business or exercise any borrowing powers unless—

(a) a declaration is filed by a director within a period of one hundred and eighty days of the date of incorporation of the company in such form and verified in such manner as may be prescribed, with the Registrar that every subscriber to the memorandum has paid the value of the shares agreed to be taken by him on the date of making of such declaration; and

(b) the company has filed with the Registrar a verification of its registered office as provided in sub-section (2) of section 12.

(2) If any default is made in complying with the requirements of this section, the company shall be liable to a penalty of fifty thousand rupees and every officer who is in default shall be liable to a penalty of one thousand rupees for each day during which such default continues but not exceeding an amount of one lakh rupees.

(3) Where no declaration has been filed with the Registrar under clause (a) of sub-section (1) within a period of one hundred and eighty days of the date of incorporation of the company and the Registrar has reasonable cause to believe that the company is not carrying on any business or operations, he may, without prejudice to the provisions of sub-section (2), initiate action for the removal of the name of the company from the register of companies under Chapter XVIII.”.

**4. Amendment of section 12.**—In section 12 of the principal Act, after sub-section (8), the following sub-section shall be inserted, namely:—

“(9) If the Registrar has reasonable cause to believe that the company is not carrying on any business or operations, he may cause a physical verification of the registered office of the company in such manner as may be prescribed and if any default is found to be made in complying with the requirements of sub-section (1), he may without prejudice to the provisions of sub-section (8), initiate action for the removal of the name of the company from the register of companies under Chapter XVIII.”.

**5. Amendment of section 14.**—In section 14 of the principal Act,—

(i) in sub-section (1), for the second proviso, the following provisos shall be substituted, namely:—

“Provided further that any alteration having the effect of conversion of a public company into a private company shall not be valid unless it is approved by an order of the Central Government on an application made in such form and manner as may be prescribed:

Provided also that any application pending before the Tribunal, as on the date of commencement of the Companies (Amendment) Act, 2019, shall be disposed of by the Tribunal in accordance with the provisions applicable to it before such commencement.”;

(ii) in sub-section (2), for the word “Tribunal”, the words “Central Government” shall be substituted.

**6. Amendment of section 26.**—In section 26 of the principal Act,—

(i) in sub-sections (4), (5) and (6), for the word “registration”, the word “filing” shall be substituted;

(ii) sub-section (7) shall be omitted.

**7. Amendment of section 29.**—In section 29 of the principal Act,—

(i) in sub-section (1), in clause (b), the word “public” shall be omitted;

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

“(1A) In case of such class or classes of unlisted companies as may be prescribed, the securities shall be held or transferred only in dematerialised form in the manner laid down in the Depositories Act, 1996 (22 of 1996) and the regulations made thereunder.”.

**8. Amendment of section 35.**—In section 35 of the principal Act, in sub-section (2), in clause (c), for the words “delivery of a copy of the prospectus for registration”, the words “filing of a copy of the prospectus with the Registrar” shall be substituted.

**9. Amendment of section 53.**—In section 53 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Where any company fails to comply with the provisions of this section, such company and every officer who is in default shall be liable to a penalty which may extend to an amount equal to the amount raised through the

issue of shares at a discount or five lakh rupees, whichever is less, and the company shall also be liable to refund all monies received with interest at the rate of twelve per cent per annum from the date of issue of such shares to the persons to whom such shares have been issued.”.

**10. Amendment of section 64.**—In section 64 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Where any company fails to comply with the provisions of sub-section (1), such company and every officer who is in default shall be liable to a penalty of one thousand rupees for each day during which such default continues, or five lakh rupees whichever is less.”.

**11. Amendment of section 77.**—In section 77 of the principal Act, in sub-section (1), for the first and second provisos, the following provisos shall be substituted, namely:—

“Provided that the Registrar may, on an application by the company, allow such registration to be made—

(a) in case of charges created before the commencement of the Companies (Amendment) Act, 2019, within a period of three hundred days of such creation; or

(b) in case of charges created on or after the commencement of the Companies (Amendment) Act, 2019, within a period of sixty days of such creation, on payment of such additional fees as may be prescribed:

Provided further that if the registration is not made within the period specified—

(a) in clause (a) to the first proviso, the registration of the charge shall be made within six months from the date of commencement of the Companies (Amendment) Act, 2019, on payment of such additional fees as may be prescribed and different fees may be prescribed for different classes of companies;

(b) in clause (b) to the first proviso, the Registrar may, on an application, allow such registration to be made within a further period of sixty days after payment of such *ad valorem* fees as may be prescribed.”.

**12. Amendment of section 86.**—Section 86 of the principal Act shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) If any person wilfully furnishes any false or incorrect information or knowingly suppresses any material information, required to be registered in accordance with the provisions of section 77, he shall be liable for action under section 447.”.

**13. Substitution of new section for section 87.**—For section 87 of the principal Act, the following section shall be substituted, namely:—

“87. Rectification by Central Government in Register of charges.—The Central Government on being satisfied that—

(a) the omission to give intimation to the Registrar of the payment or satisfaction of a charge, within the time required under this Chapter; or

(b) the omission or misstatement of any particulars, in any filing previously made to the Registrar with respect to any charge or modification thereof or with respect to any memorandum of satisfaction or other entry made in pursuance of section 82 or section 83,

was accidental or due to inadvertence or some other sufficient cause or it is not of a nature to prejudice the position of creditors or shareholders of the company, it may, on the application of the company or any person interested and on such terms and conditions as it deems just and expedient, direct that the time for the giving of intimation of payment or satisfaction shall be extended or, as the case may require, that the omission or misstatement shall be rectified.”.

**14. Amendment of section 90.**—In section 90 of the principal Act,—

(i) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) Every company shall take necessary steps to identify an individual who is a significant beneficial owner in relation to the company and require him to comply with the provisions of this section.”;

(ii) for sub-section (9), the following sub-section shall be substituted, namely:—

“(9) The company or the person aggrieved by the order of the Tribunal may make an application to the Tribunal for relaxation or lifting of the restrictions placed under sub-section (8), within a period of one year from the date of such order:

Provided that if no such application has been filed within a period of one year from the date of the order under sub-section (8), such shares shall be transferred, without any restrictions, to the authority constituted under sub-section (5) of section 125, in such manner as may be prescribed.”;

(iii) after sub-section (9), as so substituted, the following sub-section shall be inserted, namely:—

“(9A) The Central Government may make rules for the purposes of this section.”;

(iv) in sub-section (11), after the word, brackets and figure “sub-section (4)”, the words, brackets, figure and letter “or required to take necessary steps under sub-section (4A)” shall be inserted.

**15. Amendment of section 92.**—In section 92 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) If any company fails to file its annual return under sub-section (4), before the expiry of the period specified therein, such company and its every officer who is in default shall be liable to a penalty of fifty thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees.”.

**16. Amendment of section 102.**—In section 102 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Without prejudice to the provisions of sub-section (4), if any default is made in complying with the provisions of this section, every promoter, director, manager or other key managerial personnel of the company who is in default shall be liable to a penalty of fifty thousand rupees or five times the amount of benefit accruing to the promoter, director, manager or other key managerial personnel or any of his relatives, whichever is higher.”.

**17. Amendment of section 105.**—In section 105 of the principal Act, in sub-section (3), for the words “punishable with fine which may extend to five thousand rupees”, the words “liable to a penalty of five thousand rupees” shall be substituted.

**18. Amendment of section 117.**—In section 117 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) If any company fails to file the resolution or the agreement under sub-section (1) before the expiry of the period specified therein, such company shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of twenty five lakh rupees and every officer of the company who is in default including liquidator of the company, if any, shall be liable to a penalty of fifty thousand rupees and in case

of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees.”.

**19. Amendment of section 121.**—In section 121 of the principal Act, for sub-section (3), the following sub-section Amendment shall be substituted, namely:—

“(3) If the company fails to file the report under sub-section (2) before the expiry of the period specified therein, such company shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees and every officer of the company who is in default shall be liable to a penalty which shall not be less than twenty-five thousand rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of one lakh rupees.”.

**20. Amendment of section 132.**—In section 132 of the principal Act,—

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

“(1A) The National Financial Reporting Authority shall perform its functions through such divisions as may be prescribed.”;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) Each division of the National Financial Reporting Authority shall be presided over by the Chairperson or a full-time Member authorised by the Chairperson.

(3B) There shall be an executive body of the National Financial Reporting Authority consisting of the Chairperson and full-time Members of such Authority for efficient discharge of its functions under sub-section (2) [other than clause (a)] and sub-section (4).”;

(c) in sub-section (4), in clause (c) for sub-clause (B), the following sub-sections shall be substituted, namely:—

“(B) debaring the member or the firm from—

I. being appointed as an auditor or internal auditor or undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate; or

II. performing any valuation as provided under section 247, for a minimum period of six months or such higher period not exceeding ten years as may be determined by the National Financial Reporting Authority.”.

**21. Amendment of section 135.**—In section 135 of the principal Act,—

(a) in sub-section (5),—

(i) after the words “three immediately preceding financial years,” the words “or where the company has not completed the period of three financial years since its incorporation, during such immediately preceding financial years,” shall be inserted;

(ii) in the second proviso, after the words “reasons for not spending the amount” occurring at the end, the words, brackets, figure and letters “and, unless the unspent amount relates to any ongoing project referred to in sub-section (6), transfer such unspent amount to a Fund specified in Schedule VII, within a period of six months of the expiry of the financial year” shall be inserted;

(b) after sub-section (5), the following sub-sections shall be inserted, namely:—

“(6) Any amount remaining unspent under sub-section (5), pursuant to any ongoing project, fulfilling such conditions as may be prescribed, undertaken by a company in pursuance of its Corporate Social Responsibility Policy, shall be transferred by the company within a period of thirty days from the end of the financial year to a special account to be opened by the company in that behalf for that financial year in any scheduled bank to be called the Unspent Corporate Social Responsibility Account, and such amount shall be spent by the company in pursuance of its obligation towards the Corporate Social Responsibility Policy within a period of three financial years from the date of such transfer, failing which, the company shall transfer the same to a Fund specified in Schedule VII, within a period of thirty days from the date of completion of the third financial year.

(7) If a company contravenes the provisions of sub-section (5) or sub-section (6), the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to



twenty-five lakh rupees and every officer of such company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

(8) The Central Government may give such general or special directions to a company or class of companies as it considers necessary to ensure compliance of provisions of this section and such company or class of companies shall comply with such directions.”.

**22. Amendment of section 137.**—In section 137 of the principal Act, in sub-section (3),—

(a) for the words “punishable with fine”, the words “liable to a penalty” shall be substituted;

(b) for the portion beginning with the words “punishable with imprisonment”, and ending with the words “five lakh rupees or with both”, the words “shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees” shall be substituted.

**23. Amendment of section 140.**—In section 140 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) If the auditor does not comply with the provisions of sub-section (2), he or it shall be liable to a penalty of fifty thousand rupees or an amount equal to the remuneration of the auditor, whichever is less, and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees.”.

**24. Amendment of section 157.**—In section 157 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) If any company fails to furnish the Director Identification Number under sub-section (1), such company shall be liable to a penalty of twenty five thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of one lakh rupees, and every

officer of the company who is in default shall be liable to a penalty of not less than twenty-five thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of one lakh rupees.”.

**25. Substitution of new section for section 159. Penalty for default of certain provisions.**—For section 159 of the principal Act, the following section shall be substituted, namely:—

“159. If any individual or director of a company makes any default in complying with any of the provisions of section 152, section 155 and section 156, such individual or director of the company shall be liable to a penalty which may extend to fifty thousand rupees and where the default is a continuing one, with a further penalty which may extend to five hundred rupees for each day after the first during which such default continues.”.

**26. Amendment of section 164.**—Section 164 of the principal Act, in sub-section (1), after clause (h), the following clause shall be inserted, namely:—

“(i) he has not complied with the provisions of sub-section (1) of section 165.”.

**27. Amendment of section 165.**—In section 165 of the principal Act, in sub-section (6),—for the portion beginning with the words “punishable with fine” and ending with the words “contravention continues”, the words “liable to a penalty of five thousand rupees for each day after the first during which such contravention continues” shall be substituted.

**28. Amendment of section 191.**—In section 191 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) If a director of the company makes any default in complying with the provisions of this section, such director shall be liable to a penalty of one lakh rupees.”.

**29. Amendment of section 197.**—In section 197 of the principal Act,—

(a) sub-section (7) shall be omitted;

(b) for sub-section (15), the following sub-section shall be substituted, namely:—

“(15) If any person makes any default in complying with the provisions of this section, he shall be liable to a penalty of one lakh rupees and where any default has been made by a company, the company shall be liable to a penalty of five lakh rupees.”.

**30. Amendment of section 203.**—In section 203 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) If any company makes any default in complying with the provisions of this section, such company shall be liable to a penalty of five lakh rupees and every director and key managerial personnel of the company who is in default shall be liable to a penalty of fifty thousand rupees and where the default is a continuing one, with a further penalty of one thousand rupees for each day after the first during which such default continues but not exceeding five lakh rupees.”.

**31. Amendment of section 212.**—In section 212 of the principal Act,—

(a) in sub-section (8), for the words “If the Director, Additional Director or Assistant Director”, the words “If any officer not below the rank of Assistant Director” shall be substituted;

(b) in sub-section (9), for the portion beginning with the words “The Director” and ending with the word, brackets and figure “sub-section (8)”, the words, brackets and figure “The officer authorised under sub-section (8) shall, immediately after arrest of such person under such sub-section” shall be substituted;

(c) in sub-section (10),—

(i) for the words “Judicial Magistrate”, the words “Special Court or Judicial Magistrate” shall be substituted;

(ii) in the proviso, for the words “Magistrate’s Court”, the words “Special Court or Magistrate’s Court” shall be substituted;

(d) after sub-section (14), the following sub-section shall be inserted, namely:—

“(14A) Where the report under sub-section (11) or sub-section (12) states that fraud has taken place in a company and due to such fraud any director, key managerial personnel, other officer of the company or any other person or entity, has taken undue advantage or benefit, whether in

the form of any asset, property or cash or in any other manner, the Central Government may file an application before the Tribunal for appropriate orders with regard to disgorgement of such asset, property or cash and also for holding such director, key managerial personnel, other officer or any other person liable personally without any limitation of liability.”.

**32. Amendment of section 238.**—In section 238 of the principal Act, in sub-section (3), for the words “punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees”, the words “liable to a penalty of one lakh rupees” shall be substituted.

**33. Amendment of section 241.**—In section 241 of the principal Act,—

(a) in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that the applications under this sub-section, in respect of such company or class of companies, as may be prescribed, shall be made before the Principal Bench of the Tribunal which shall be dealt with by such Bench.”;

(b) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) Where in the opinion of the Central Government there exist circumstances suggesting that—

(a) any person concerned in the conduct and management of the affairs of a company is or has been in connection therewith guilty of fraud, misfeasance, persistent negligence or default in carrying out his obligations and functions under the law or of breach of trust;

(b) the business of a company is not or has not been conducted and managed by such person in accordance with sound business principles or prudent commercial practices;

(c) a company is or has been conducted and managed by such person in a manner which is likely to cause, or has caused, serious injury or damage to the interest of the trade, industry or business to which such company pertains; or

(d) the business of a company is or has been conducted and managed by such person with intent to defraud its creditors, members or any other person or otherwise for a fraudulent or unlawful purpose or in a manner prejudicial to public interest,

the Central Government may initiate a case against such person and refer the same to the Tribunal with a request that the Tribunal may inquire into the case and record a decision as to whether or not such person is a fit and proper person to hold the office of director or any other office connected with the conduct and management of any company.

(4) The person against whom a case is referred to the Tribunal under sub-section (3), shall be joined as a respondent to the application.

(5) Every application under sub-section (3)—

(a) shall contain a concise statement of such circumstances and materials as the Central Government may consider necessary for the purposes of the inquiry; and

(b) shall be signed and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the signature and verification of a plaint in a suit by the Central Government.”.

**34. Amendment of section 242.**—In section 242 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) At the conclusion of the hearing of the case in respect of sub-section (3) of section 241, the Tribunal shall record its decision stating therein specifically as to whether or not the respondent is a fit and proper person to hold the office of nomw to director or any other office connected. with the contact and management of any company.”.

**35. Amendment of section 243.**—In section 243 of the principal Act,—

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

“(1A) The person who is not a fit and proper person pursuant to sub-section (4A) of section 242 shall not hold the office of a director or any other office connected with the conduct and management of the affairs of any company for a period of five years from the date of the said decision:

Provided that the Central Government may, with the leave of the Tribunal, permit such person to hold any such office before the expiry of the said period of five years.

(1B) Notwithstanding anything contained in any other provision of this Act, or any other law for the time being in force, or any contract, memorandum or articles, on the removal of a person from the office of a director or any other office connected with the conduct and management of the affairs of the company, that person shall not be entitled to, or be paid, any compensation for the loss or termination of office.”;

(b) in sub-section (2), after the word, brackets and figure “sub-section (1)”, the words, brackets, figure and letter “or sub-section (1A)” shall be inserted.

**36. Amendment of section 248.**—In section 248 of the principal Act, in sub-section (1),—

(a) in clause (c), for the word and figures “section 455,”, the words and figures “section 455; or” shall be substituted;

(b) after clause (c) and before the long line, the following clauses shall be inserted, namely:—

“(d) the subscribers to the memorandum have not paid the subscription which they had undertaken to pay at the time of incorporation of a company and a declaration to this effect has not been filed within one hundred and eighty days of its incorporation under sub-section (1) of section 10A; or

(e) the company is not carrying on any business or operations, as revealed after the physical verification carried out under sub-section (9) of section 12.”.

**37. Amendment of section 272.**—In section 272 of the principal Act, in sub-section (3), for the words, brackets and letter “or clause (e) of that sub-section”, the words “of that section” shall be substituted.

**38. Amendment of section 398.**—In section 398 of the principal Act, in sub-section (1), in clause (f), the word “prospectus,” shall be omitted.

**39. Amendment of section 441.**—In section 441 of the principal Act,—

(a) in sub-section (1), in clause (b), for the words “does not exceed five lakh rupees”, the words “does not exceed twenty-five lakh rupees” shall be substituted;

(b) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) any offence which is punishable under this Act with imprisonment only or with imprisonment and also with fine shall not be compoundable.”.

**40. Amendment of section 446B.**—In section 446B of the principal Act, for the portion beginning with the words “punishable with fine” and ending with the words “specified in such sections”, the words “liable to a penalty which shall not be more than one-half of the penalty specified in such sections” shall be substituted.

**41. Amendment of section 447.**—In section 447 of the principal Act, in the second proviso, for the words “twenty lakh rupees”, the words “fifty lakh rupees” shall be substituted.

**42. Amendment of section 454.**—In section 454 of the principal Act,—

(i) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The adjudicating officer may, by an order—

(a) impose the penalty on the company, the officer who is in default, or any other person, as the case may be, stating therein any non-compliance or default under the relevant provisions of this Act; and

(b) direct such company, or officer who is in default, or any other person, as the case may be, to rectify the default, wherever he considers fit.”;

(ii) in sub-section (4), for the words “such company and the officer who is in default”, the words “such company, the officer who is in default or any other person” shall be substituted;

(iii) in sub-section (8),—

(a) in clause (i), for the words “does not pay the penalty imposed by the adjudicating officer or the Regional Director”, the words, brackets and figures “fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be,” shall be substituted;

(b) in clause (ii),—

(i) for the words “Where an officer of a company”, the words “Where an officer of a company or any other person” shall be substituted;

(ii) for the words “does not pay the penalty”, the words, brackets and figures “fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be,” shall be substituted.

**43. Insertion of new section 454.**—After section 454 of the principal Act, the following section shall be inserted, namely:—

“454A. *Penalty for repeated default.*—Where a company or an officer of a company or any other person having already been subjected to penalty for default under any provisions of this Act, again commits such default within a period of three years from the date of order imposing such penalty passed by the adjudicating officer or the Regional Director, as the case may be, it or he shall be liable for the second or subsequent defaults for an amount equal to twice the amount of penalty provided for such default under the relevant provisions of this Act.”.

**44. Repeal and savings.**—(1) The Companies (Amendment) Second Ordinance, 2019 (Ord. 6 of 2019) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.