

The Industrial Reconstruction Bank of India Act, 1984

[Act, No. 62 of 1984]

[11th September, 1984]

PREAMBLE

An Act to provide for the establishment of the Industrial Reconstruction Bank of India, and for

the transfer to, and vesting in, the said Reconstruction Bank, of the undertaking of the

Corporation known as the Industrial Reconstruction Corporation of India Limited, with a view

to enabling the said Reconstruction Bank to function as the principal credit and reconstruction

agency for Industrial revival and to co-ordinate similar work of the other institution engaged

therein and to assist and promote industrial development, and to rehabilitate industrial

concerns, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:--

Section 1 - Short title and commencement

(1) This Act may be called The Industrial Reconstruction Bank of India Act, 1984.

(2) It shall come into force on such date¹as the, Central Government may, by notification in

the Official Gazette, appoint, and different dates may be appointed for different provisions of

this Act.

1. Act came into force on 20-3-1985

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Section 2 - Definitions

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

(a) "appointed day", in relation to any provision of this Act, means the date on which

such provision comes into force and any reference to the appointed day in any provision

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of this Act shall be construed as a reference to the commencement of that provision;

(b) "assistance" means any direct or indirect financial, managerial or technical assistance

granted by the Reconstruction Bank in pursuance of any business referred to in section

18;

(c) "assisted industrial concern" means any industrial concern to which any assistance

has been given by the Reconstruction Bank;

(d) "Board" means the Board of directors of the Reconstruction Bank;

(e) "charge" includes a charge referred to in section 37;

(f) "Corporation" means the Industrial Reconstruction Corporation of India Limited, a

company formed and registered under the Companies Act, 1956, and having its

registered office in the State of West Bengal;

(g) "Development Bank" means the Industrial Development Bank of India, established

under section 3 of the Industrial Development Bank of India Act, 1964;

(h) "dues" means any dues payable by any person to the Reconstruction Bank in relation

to any assistance given by, or any bond or debenture issued to the Reconstruction Bank,

and includes interest, rent, costs, charges and commission payable in relation thereto;

(i) "industrial concern"--

(1) means any concern engaged, or to be engaged, in--

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

(ii) shipping;

(iii) mining;

(iv) the hotel industry;

(v) the transport of passengers or goods by road or by water or by air or by

ropeway or by lift;

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

(vii) the maintenance, repair, testing or servicing of machinery of any description

or vehicles or vessels or motor boats or trailers or tractors;

(viii) assembling, repairing or packing any article with the aid of machinery or

power;

(ix) the development of any contiguous area of land as an industrial estate;

(x) fishing or providing shore facilities for fishing or maintenance thereof;

(xi) providing special or technical knowledge or other services for the promotion of

industrial growth; or

(xii) the research and development of any process or product in relation to any of

the matters aforesaid,

(2) and includes--

(i) an undertaking owned, controlled or managed by a company, firm or other

body corporate, which is, or is to be, so engaged.

(ii) such other concern as the Central Government may, by notification in the

Official Gazette, specify in this behalf.

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Explanation.-- The expression "processing of goods" includes any art or process for

producing, preparing or making an article by subjecting any material to manual,

mechanical, chemical, electrical or any other like operation;

(j) "nationalised bank" means a corresponding new bank as defined in section 2 of the--

(i) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;

(ii) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980; (k) "prescribed"

means prescribed by rules made under this Act;

(l) "public financial institution" means a public financial institution specified in, or under,

section 4A of the Companies Act, 1956;

(m) "Reconstruction Bank" means the Industrial Reconstruction Bank of India, established

under section 3;

(n) "regulation" means a regulation made under this Act;

(o) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the

Reserve Bank of India Act, 1934;

(p) "share" means a share in the capital of the Corporation;

(q) "shareholder" means a person registered by the Corporation as the holder of a share;

(r) "scheduled bank" means a bank for the time being included in the Second Schedule to

the Reserve Bank of India Act, 1934;

(s) "State Bank" means the State Bank of India constituted under section 3 of the State

Bank of India Act, 1955;

(t) "State co-operative bank" means the principal co-operative society in a State, the

primary object of which is the financing of other co-operative societies in the State;

(u) "State Financial Corporation" means a financial corporation established under section

3 or section 3A or an institution notified under section 46, of the State Financial

Corporations Act, 1951;

(v) "State level agency" means such institution or agency, operating in any State or

Union Territory, as may be specified as its agency by the Reconstruction Bank.

Section 3 - Establishment of the Reconstruction Bank

(1) With effect from such date as the Central Government may, by notification in the Official

Gazette, appoint, there shall be established, for the purposes of this Act, a corporation, to be

known as the Industrial Reconstruction Bank of India.

(2) The Reconstruction Bank shall be a body corporate with the name aforesaid, having

perpetual succession and a common seal with power, subject to the provisions of this Act to

acquire, hold and dispose of property, and to contract, and may, by that name, sue and be

sued.

(3) The head office of the Reconstruction Bank shall be at Calcutta, and the Reconstruction

Bank may establish offices, branches or agencies at any other place, whether in, or outside,

India.

Section 4 - Authorised capital

(1) The authorised capital of the Reconstruction Bank shall be rupees two hundred crores.

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(2) The initial paid-up capital of the Reconstruction Bank shall be rupees fifty crores which

shall be obtained,--

(a) by the appropriation, out of the assets of the Corporation which stand transferred to

the Reconstruction Bank by virtue of the provisions of section 5, of a sum of rupees

twenty crores, being an amount equal to the amount paid-up on the shares of the

Corporation;

(b) by the conversion, to the extent of rupees twenty crores, of the loans granted by the

Central Government to the Corporation, into the capital of the Reconstruction Bank; and

(c) by the subscription, by the Central Government, to the paid up capital of the

Reconstruction Bank, of a sum of rupees ten crores.

(3) The Reconstruction Bank may increase its paid-up capital by making further issue of

shares of such amount as it may think expedient, but in doing so, the Reconstruction Bank

shall ensure that its total capital does not, in any case, exceed its authorised capital.

(4) The entire paid-up capital of the Reconstruction Bank shall be wholly subscribed by, and

allotted to, the Central Government.

Section 4A - Transitional Provisions regarding adjustment of capital of the Reconstruction

Bank

1[4A. Transitional Provisions regarding adjustment of capital of the Reconstruction Bank

(1) The Central Government may reduce share capital of the Reconstruction Bank by,--

(a) extinguishing or reducing the liability of any of its equity shares;

(b) either with or without extinguishing or reducing liability on any of its equity shares, cancelling

any paid up share capital which is lost, or is unrepresented by available assets; or

(c) either with or without extinguishing or reducing liability on any of its equity shares, paying of

any paid up share capital which is in excess of the wants of the Reconstruction Bank.

(2) The Central Government may at any time, by notification in the Official Gazette, convert such

number of equity shares held by it, as it may decide into redeemable preference shares.

(3) The redeemable preference shares referred to in sub-section (2) shall carry such fixed rates of

dividend as the Central Government may specify at the time of such conversion.]

1. Inserted by The Industrial Reconstruction Bank (Transfer of Undertakings and Repeal) Act, 1997

w.e.f. 24.01.1997.

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Section 5 - Undertaking of the Corporation to be transferred to the Reconstruction Bank

(1) On such date as the Central Government may, by notification in the Official Gazette,

appoint, the undertaking of the Corporation shall stand transferred to, and shall vest in, the

Reconstruction Bank.

(2) For the transfer to, and vesting in, the Reconstruction Bank of the undertaking of the

Corporation, the Corporation shall be given, in cash, by the Central Government an amount

equal to the amount of the total paid-up capital of the Corporation.

(3) The undertaking of the Corporation shall be deemed to include all assets, business,

rights, powers, authorities and privileges and all property, movable and immovable, cash

balances, reserve funds, investments, book debts and all other rights and interests in, or

arising out of, such property as were, immediately before the appointed day, in the

ownership, possession, power or control of the Corporation whether within or outside India,

and all books of account, registers, records, and all other documents of whatever nature

relating thereto, and shall also be deemed to include all borrowings, liabilities and

obligations of whatever kind then subsisting of the Corporation in relation to its undertaking.

(4) Unless otherwise expressly provided by this Act, all contracts, deeds, bonds, agreements,

powers of attorney, grants of legal representation and other instruments of whatever nature

subsisting or having effect immediately before the appointed day and to which to Corporation

is a party or which are in favour of the Corporation, shall be of as full force and effect against

or in favour of the Reconstruction Bank, and may be enforced or acted upon as fully and

effectually as if, in the place of the Corporation, the Reconstruction Bank had been a party

thereto or as if they had been issued in favour of the Reconstruction Bank.

(5) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in

relation to the business of the undertaking which has been transferred under this section, is

pending by, or against, the Corporation, the same shall not abate, be discontinued or be, in

any way, prejudicially affected by reason of the transfer of the undertaking of the

Corporation or of anything contained in this Act, and the suit, appeal or other proceeding

may be continued, prosecuted and enforced by, or against, the Reconstruction Bank.

Section 6 - Power of Central Government to authorise a person to take over the

management of the Corporation

(1) The Central Government may appoint, on or after the appointed day, a suitable person to

take over the management of the Corporation for the purpose of winding up of the

Corporation, and, where any person is so appointed, it shall be the duty of such person to

bring the operations of the Corporation to a close, realise the amounts payable to the

Corporation under sub-section (2) of section 5, and distribute the said amount to the

shareholders in accordance with their rights and interests, and after such realisation and

distribution, to obtain the order of the Central Government for the dissolution of the

Corporation.

(2) For the purposes of sub-section f 1), the person appointed under that sub-section shall

have such powers and duties of the Official Liquidator under the Companies Act, 1956, as are

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necessary to give effect to the provisions of sub-section (1) as if the Corporation were being

wound up by the Court, and, for this purpose the provisions of the Companies Act, 1956 shall

apply, subject to the modification that for the word "Court", wherever it occurs, the words

"Central Government" shall be substituted.

(3) When any person is appointed by the Central Government under sub-section (1), to take

over the management of the Corporation,--

(a) the provisions of the Companies Act, 1956, or of any other law for the time being in

force, or any instrument having effect by virtue of any Act, or other law, shall, in so far

as they are inconsistent with the provisions of this Act, cease to apply to, or in relation

to, the Corporation;

(b) all persons holding office as Chairman and Managing Director and other Directors, of

the Corporation, immediately before the appointment of the person under sub-section

(1), shall be deemed to have vacated their offices as such.

(4) Notwithstanding anything contained in this Act or in any other law for the time being in

force or in any agreement or contract, any person holding, immediately before the appointed

day, office as the Chairman or director of the Corporation, who vacates his office as such on

the appointed day by reason of the provisions of sub-section (3), shall not be entitled to any

compensation from the Reconstruction Bank for the loss of office or for the premature

termination of any agreement or contract relating to his employment, except such

compensation or other benefit which the Reconstruction Bank may grant to him, having

regard to what that person would have received as an officer of the Corporation if this Act

had not been passed and if he had retired from his employment in the ordinary course.

Section 7 - Transfer of the services of the officers and other employees of the Corporation

to the Reconstruction Bank

(1) Save as otherwise provided in sub-section (3) of section 6, every officer or other

employee of the Corporation shall become, on and from the appointed day, an officer or

other employee, as the case may be, of the Reconstruction Bank and shall hold his office or

service in that bank on the same terms and conditions and with the same rights to gratuity

and other matters as would have been admissible to him, if the undertaking of the

Corporation had not been transferred to, and vested in, the Reconstruction Bank, and

continue to do so unless and until his employment in the Reconstruction Bank is duly

terminated or until his remuneration, terms and conditions are duly altered by the

Reconstruction Bank :

Provided that an officer or other employee who does not intend to continue as an

employee of the Reconstruction Bank may, within ninety days from the appointed day,

serve a notice of his intention to the Reconstruction Bank, and, on the expiry of the

period of thirty days from the date of service of the notice, he shall cease to be an

employee of the Reconstruction Bank and, on such cesser, superannuation and other

benefits due to him under the terms of his employment shall be paid to him forthwith by

the Reconstruction Bank as if he had retired from service.

(2) Any person who, on the appointed day, is entitled to, or is in receipt of, any

superannuation or compassionate allowance or benefit from the Corporation or any provident

or other fund or any authority administering such fund shall be entitled to be paid by, and to

receive from, the Reconstruction Bank or any provident or other fund or any authority

administering such fund, the same allowance or benefit so long as he observes the conditions

on which the allowance or benefit was granted, and, if any question arises whether he has so

observed such conditions, the question shall be determined by the Central Government and

the decision of the Central Government thereon shall be final.

(3) Where, under the terms of any contract of service or otherwise, any person whose

service becomes transferred to the Reconstruction Bank by reason of the provisions of this

Act is entitled to any payment by way of gratuity or retirement benefit or compensation for

any leave not availed of, or any other benefits, such person may enforce his claim against

the Reconstruction Bank.

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(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), no application

made or promotion, increment in salary, allowance or any other benefit granted to any

person, before the appointed day, which would not ordinarily have been made or granted or

which would not ordinarily have been admissible under the rules or authorisation of the

Corporation, or of any provident or other fund in force prior to the appointed day, shall have

effect or be payable or claimable from the Reconstruction Bank or from any provident or

other fund or from an authority administering such fund, unless the Central Government

has, by general or special order, confirmed the appointment, promotion or increment or has

directed the continued grant of such allowance or other benefit, as the case may be.

(5) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other

law for the time being in force, the transfer of the services of any officer or other employee

of the Corporation to the Reconstruction Bank shall not entitle such officer or other employee

to any compensation under that Act or other law, and no such claim shall be entertained by

any Court, tribunal or other authority.

(6) Where any person, Chairman, or other director, by whatever name called, or other

employee of the Corporation has, before the appointed day, been paid a sum by way of

compensation or gratuity, the Reconstruction Bank shall be entitled to claim refund of any

sum so paid, if the payment is not confirmed by the Central Government by general or

special order.

(7) Where one or more provident funds have been established, or maintained, by the

Corporation or any other authority, for the benefit of its officers and other employees, the

money debitable to the officers and other employees whose services have become

transferred, by or under this Act to the Reconstruction Bank, shall, out of the monies

standing on the appointed day to the credit of such provident fund, stand transferred to, and

vested in, the provident fund established by the Reconstruction Bank under section 62.

(8) Where superannuation, welfare and other funds have been established by the

Corporation for the benefit of his officers or other employees whose services stand

transferred to the Reconstruction Bank, the amount standing to the credit of such fund shall

stand transferred, on the appointed day, to the Reconstruction Bank for distribution to the

concerned officers or other employees in accordance with their rights and obligations.

Section 8 - Dissolution of the Corporation

(1) As soon as realisation and distribution of the amount have been made under section 6,

the person appointed under sub-section (1) of that section shall submit his duly audited

accounts to the Central Government and shall apply to the Government for orders as to the

dissolution of the Corporation.

(2) The Central Government shall, after hearing such person as it may think fit, and upon

perusing the accounts so audited, if satisfied that the amount has been realised and

distributed in accordance with the provisions of this Act, make an order that the Corporation

is dissolved from the date of the order and the Corporation shall stand dissolved accordingly.

(3) A copy of the order made by the Central Government for the dissolution of the

Corporation shall be filed by the Reconstruction Bank with the Registrar of Companies within

thirty days from the date of such order, and the Registrar of Companies shall give effect to

the said order as if it were an order made by the Court for the dissolution of the Corporation.

(4) The provisions of this section shall have effect, notwithstanding anything to the contrary

contained in the Companies Act, 1956, or in any other law for the time being in force.

Section 9 - Management

(1) The general superintendence, direction and management of the affairs and business of

the Reconstruction Bank shall vest in a Board of directors which may exercise all powers and

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do all acts and things which may be exercised or done by the Reconstruction Bank.

(2) Save as otherwise provided in the regulations made under this Act, the Chairman shall

also have powers of general superintendence, direction and management of the affairs and

business of the Reconstruction Bank and may also exercise all powers and do all acts and

things which may be exercised or done by the Reconstruction Bank.

(3) Subject to the provisions of this Act, the Board, in discharging its functions, shall act on

business principles with due regard to public interest.

(4) In the discharge of its functions under this Act, the Reconstruction Bank shall be guided

by such directions in matters of policy involving public interest as the Central Government

may give to it in writing, and if any dispute arises as to whether a question is or is not a

question of such policy, the dispute shall be decided by the Central Government whose

decision thereon shall be final.

Section 10 - Board of directors

(1) The Board shall consist of the following, namely:--

(a) a Chairman, to be appointed by the Central Government, who shall function both as the

Chairman and as the managing director;

(b) a Deputy Governor of the Reserve Bank, to be nominated by that Bank;

(c) a director, to be nominated by the Development Bank;

(d) not more than fifteen directors to be nominated by the Central Government, of whom --

(i) three shall be officials of the Central Government,

(ii) not more than three shall be from the public financial institutions,

(iii) not more than five shall be from the State Bank, nationalised banks and the State Financial

Corporations,

(iv) not more than four shall be from among persons who have in the opinion of the Central

Government, special knowledge of, and professional experience in science technology, economics,

industry, industrial co-operatives law, industrial finance, investment, accountancy, marketing or any

other matter, the special knowledge of, or professional experience in which would in the opinion of

the Central Government, be useful to the Reconstruction Bank.

(2) A director nominated under sub-section (1) shall hold office during the pleasure of the authority

nominating him.

1[(3) Subject to the provisions of sub-section (2), a director nominated under clause (c) or clause

(d) of sub-section (1) and not being an official of Government or not being an official or whole time

director of the Development Bank or a public financial institution or the State Bank or a nationalised

bank or a State Financial Corporation, shall hold office for such term, not exceeding three years, as

the authority nominating him may specify in this behalf and thereafter until his successor enters

upon his office, and shall be eligible for re-nomination :

Provided that no such director shall hold office continuously for a period exceeding six years.]

1. Inserted by Act (66 of 1988), Section 47 (30-12-1988).

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Section 11 - Disqualifications of membership of the Board

No person shall be qualified to be a member of the Board if--

(a) he has been removed or dismissed from service of --

(i) Government, or

(ii) Reserve Bank, State Bank or any other bank, or

(iii) any public financial institution or State Financial Corporation or

(iv) any other corporation owned or controlled by Government on a charge of

corruption or bribery, or

(b) he is, or at any time has been adjudicated an insolvent or has suspended payment of

his debts or has compounded with his creditors; or

(c) he is a lunatic and stands so declared by a competent court or

(d) he is or has been convicted of any offence, which, in the opinion of the Central

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Government, involves moral turpitude.

Section 12 - Term of office, salaries and allowances of Chairman

(1) The Chairman shall hold office for such term not exceeding five years as the Central

Government may specify in this behalf and any person so appointed shall be eligible for

re-appointment for a like term.

(2) Notwithstanding anything contained in sub-section (1),--

(a) the Central Government shall have the right to terminate the term of office of the

Chairman at any time before the expiry of the term specified under sub-section (1) by

giving him notice of not less than three months in writing or three months' salary and

allowances in lieu of such notice, and the Chairman shall also have the right to relinquish

his office at any time before the expiry of the term specified under sub-section (1) by

giving, to the Central Government notice of not less than three months in writing,

(b) the Central Government may, at any time, remove the Chairman from office

Provided that no person shall be removed from his office under this clause unless he has been given

a reasonable opportunity of showing cause against his removal.

(3) Where any vacancy occurs in the office of the Chairman, the Central Government shall

appoint a suitable person to discharge the functions of the Chairman.

(4) When the Chairman is unable to discharge his functions owing to absence, illness or any

other cause, the Central Government may appoint a suitable person to function as the

Chairman until the day on which the Chairman resumes the charge of his functions.

(5) The Chairman shall be a whole-time officer of the Reconstruction Bank and shall receive

such salaries, allowances and other benefits, and shall be subject to such other terms and

conditions, as may be determined by the Central Government.

Provided that the Board may, if it is of opinion, that it is necessary in the public interest

so to do, permit the Chairman to undertake, at the request of the Central Government or

the Reserve Bank, such part time honorary work as is not likely to interfere with his

duties as Chairman.

Section 13 - Disclosure of interest

No member of the Board shall have an interest, direct or indirect, in any business, industry

or concern to which any assistance has been given or is to be given by the Reconstruction

Bank under this Act and if any such member acquires such interest at any time during the

continuance of such assistance, he shall immediately disclose it to the Board and shall either

resign his membership of the Board or dispose of his interest in such manner and within such

time as the Board may direct.

Section 14 - Meetings of the Board

(1) The Board shall meet at such times and places and shall observe such rules of procedure

in regard to the transaction of business at its meetings as may be provided for in the

regulations.

(2) If, for any reason, the Chairman is unable to attend any meeting of the Board, any other

director nominated by the Chairman in this behalf, and in the absence of such nomination,

any director elected by the directors present, from amongst themselves, shall preside at the

meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a

majority of votes of the directors present and voting, and in the event of an equality of

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votes, the Chairman, or, in his absence, the person presiding, shall have a second or casting

vote.

(4) Save as otherwise provided under sub-section (3), every director of the Board shall have

one vote.

Section 15 - Executive Committee and other committees

(1) The Board may constitute an Executive Committee consisting of such number of directors

as may be provided for in the regulations.

(2) The Executive Committee shall discharge such functions as may be provided for in the

regulations, or, as may be delegated to it, by the Board.

(3) The Board may constitute such other committees, whether consisting only of directors or

only of other persons or partly of directors and partly of other persons, for such purpose or

purposes, as it may think fit.

(4) The Executive Committee or any other committee constituted under this section shall

meet at such times and places and shall observe such rule of procedure in regard to the

transaction of business at its meetings as may be provided for in the regulations.

Section 16 - Existence of vacancy in, or defect in the constitution of, the Board or defect or

disqualification of a member not to invalidate the proceedings of the Board

(1) No act or proceeding of the Board or of any Executive or other committee constituted by

it shall be invalid merely on the ground of the existence of any vacancy in, or any defect in

the constitution of, such Board, or committee, as the case may be

(2) All acts done by a person acting in good faith as a member of the Board or of any

committee constituted by it shall be valid, notwithstanding that it may afterwards be

discovered that his appointment was invalid by reason of any defect or disqualification or had

terminated by virtue of any provision of this Act or any other law for the time being in force :

Provided that nothing in this section shall be deemed to give validity to any act of a

member of the Board or of any committee after his appointment has been shown to the

Reconstruction Bank to be invalid or to have terminated.

Section 17 - Fees and allowances of directors and members of committees

The directors and members of the committee shall be paid such fees and allowances as may

be provided for in the regulations for attending the meetings of the Board or of any

committee constituted in pursuance of this Act or for attending to any other work of the

Reconstruction Bank.

Provided that no fees shall be payable to the Chairman or to any other director or

member who is an official of the Government, or, to a Deputy Governor of the Reserve

Bank or to any official of the Development Bank or Reconstruction Bank.

Section 18 - Objects and business of the Reconstruction Bank

(1) The Reconstruction Bank shall function as the principal credit and reconstruction agency

for industrial revival by undertaking modernisation, expansion, reorganisation, diversification

or rationalisation of industries, and by co-ordinating similar work of other institutions

engaged therein, and shall assist and promote industrial development reconstruction and

revival, and undertake rehabilitation of industrial concerns, by providing or procuring

assistance and operating schemes for the same, and may, for attaining the said objects, carry

on and transact all or any of the following businesses, namely --

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(a) granting loans and advances (including working capital) to any industrial concern or

subscribing to or purchasing or underwriting the issue of stocks, shares bonds or

debentures of any industrial concern or converting the dues in respect of such loans or

debentures into the shares of any industrial concern,

(b) guaranteeing, counter-guaranteeing or providing indemnity, as the case may be, in

respect of --

(i) loans raised by an industrial concern from any scheduled bank or State cooperative

bank or any public financial institution or any other prescribed institution, or agency

in, or outside India;

(ii) deferred payments due from an industrial concern;

(iii) the performance, obligations of any contract undertaken by an industrial concern,

including repayment of any advance obtained by such industrial concern in connection

with such contract;

(c) subscribing to or purchasing or underwriting the issue of stocks, shares, bonds or

debentures of any institution which may be notified by the Central Government in this

behalf;

(d) providing credit to any State level agency or other prescribed institution or agency for

grant of loans and advances to industrial concerns ;

(e) providing or obtaining credit from other public financial institutions, scheduled banks

and State Co-operative banks, for grant of loans and advances to or to furnish

guarantees on behalf of the industrial concern;

(f) providing infrastructural facilities and raw materials;

(g) providing machinery and other equipment on lease or hire-purchase basis;

(h) providing consultancy and merchant banking services in and outside India relating to

reconstruction and development of any industrial concern or industry in general;

(i) accepting or discounting of bills of exchange-and promissory notes, made, drawn,

accepted or endorsed by any industrial concern or by any person selling capital goods

manufactured by one industrial concern to another industrial concern;

(j) promoting, owning, taking over, managing industrial concerns and acting as

authorised person, where so appointed by the Central Government, to manage an

industrial concern, including ancillaries;

(k) transferring or acquiring for consideration any instrument relating to loans and

advances;

(l) providing technical, legal, administrative and marketing assistance, promoting,

assisting and financing mergers, amalgamation or reconstruction of an industrial or

business concern;

(m) providing management assistance to industrial concerns including nationalised

undertakings by deputing officers from its own cadre or a separate management pool

constituted for the purpose;

(n) undertaking research and surveys for evaluating or dealing with marketing or

investments, carrying on techno-economic studies in connection with reconstruction and

development of industry and establishment of institutes for such purposes including

training of personnel;

(o) granting, opening, issuing, confirming or endorsing letters of credit and negotiating or

collecting bills and other documents drawn thereunder;

(p) forming, or controlling, of subsidiaries for carrying out any of its functions or to carry

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on such other activities conducive to its business.

(q) acting as an agent of--

(i) Central Government or State Government;

(ii) Reserve Bank, State Bank, Scheduled Bank, State Co-operative Bank, Public

Financial Institutions, State Financial Corporations;

(iii) such other Government or person as the Central Government may authorise;

and to appoint one or more of those institutions, or agencies, or any other prescribed

person, as its agent;

(r) performing functions entrusted to or required of it by Central Government under this

Act or any other law;

(s) doing any kind of business or assignment in or outside the country which the Central

Government may authorise.

(t) collecting information from all concerned agencies relating to industrial sickness and

industrial development;

(u) preparing guidelines to assist the Central Government in formulating policy

framework to reconstruct, revive or rehabilitate industrial concerns or any industry;

(v) granting loans for housing and other purposes to the officers and other employees

(including persons employed on contract) of the Reconstruction Bank.

(w) generally doing such other acts and things as may be incidental to or consequential

upon the exercise of its powers or of its duties under this Act or any other law, including

sale or transfer of any of its assets.

(2) The Reconstruction Bank may receive in consideration of any of the services mentioned

in sub-section (1), such commission, brokerage, interest, rent, remuneration or fees, as may

be agreed upon.

(3) The Reconstruction Bank shall not grant any loan or advance or other assistance on the

security of its own bonds or debentures.

Section 19 - Prohibited business

(1) The Reconstruction Bank shall not enter into any kind of business with any industrial

concern, of which any of the directors of the Reconstruction Bank is a proprietor, partner,

director, manager, agent, employee or guarantor, or in which one or more directors of the

Reconstruction Bank together hold substantial interest :

Provided that this sub-section shall not apply to any industrial concern if any director of

the Reconstruction Bank --

(i) is nominated as a director of the Board of such concern by Government, or a Government

company, or by the Reconstruction Bank or by a corporation established by any other law, or

(ii) is elected as a director on the Board-of such industrial concern by virtue of shares held in that

industrial concern by Government, or a Government company, or by the Reconstruction Bank or by

a corporation established by any other law,

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

Explanation I.-- "Government company" has the meaning assigned to it in section 617 of the

Companies Act, 1956.

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Explanation II.-- "Substantial interest", in relation to any industrial concern, means the

beneficial interest held by one or more of the directors of the Reconstruction Bank or by any

relative [as defined in clause (41) of section 2 of the Companies Act, 1956] of such director

whether singly or taken together, in the shares of the industrial concern, the aggregate

amount paid-up on which either exceeds five lakhs of rupees or five per cent, of the paid-up

share capital of the industrial concern, whichever is the lesser.

(2) The provisions of sub-section (1) --

(i) shall not apply to any industrial concern as specified therein if the Reconstruction

Bank is satisfied that it is necessary in the public interest to enter into business with that

concern, and entering into any kind of business with such industrial concern shall be in

accordance with and subject to such conditions and limitations as may be provided for in

the regulations;

(ii) shall apply only so long as the conditions precedent to such disability as set out in the

said sub-section continue.

Section 20 - Loans by Central Government

The Central Government may, after due appropriation made by Parliament by law in this

behalf, advance to the Reconstruction Bank interest free loans or loans with interest on such

terms and conditions, as may be agreed upon.

Section 21 - Borrowing and acceptance of deposits by the Reconstruction Bank

(1) The Reconstruction Bank may for the purpose of carrying out its functions under this Act

--

(a) issue and sell bonds and debentures with or without guarantee of the Central

Government;

(b) borrow money from the Reserve Bank --

(i) repayable on demand or on the expiry of fixed periods, not exceeding ninety days

from the date on which the money is so borrowed against the security of stocks, funds

and securities (other than immovable property) in which a trustee is authorised to

invest trust money by any law for the time being in force in India;

(ii) against bills of exchange or promissory notes arising out of bona fide commercial

or trade transactions, bearing two or more good signatures and maturing within five

years from the date of borrowing;

(iii) for any other purpose approved by the Central Government in accordance with

the provisions of the Reserve Bank of India Act, 1934;

(c) borrow money from such other authority, organisation, institution or trust in India as

may be generally or specially approved by the Central Government;

(d) accept deposits repayable after the expiry of a period which shall not be less than

twelve months from the date of making of the deposit on such terms as may be generally

or specially approved by the Reserve Bank.

(2) The Central Government may, on a request being made to it by the Reconstruction.

Bank, guarantee the bonds and debentures, issued by that Bank as to the repayment of

principal and the payment of interest at such rate as may be fixed by that Government,

(3) Notwithstanding anything contained in any other law for the time being in force, the

bonds and debentures issued, or sold by the Reconstruction Bank shall be approved securities

for the purposes of the Indian Trusts Act, 1882, the Insurance Act, 1938 and the Banking

Regulation Act, 1949.

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Section 22 - Power to transfer rights

The rights and interests of the Reconstruction Bank including any other rights incidental

thereto in relation to any loan or advance granted, or any amount recoverable, by it may be

transferred by the Reconstruction Bank, either in whole or in part, by the execution or issue

of any instrument by endorsement, or in any other manner in which the rights and interests

in relation to such loan or advance may be lawfully transferred, and the Reconstruction Bank

may, notwithstanding such transfer, act as the trustee of the transferee.

Section 23 - Loans in foreign currency

(1) Notwithstanding anything contained in the Foreign Exchange Regulation Act, 1973 or in

any other enactment for the time being in force relating to foreign exchange, the

Reconstruction Bank may, for the purpose of granting loans and advances under this Act,

borrow, with the previous consent of the Central Government, foreign currency from any

bank or financial institution in any foreign country or as otherwise prescribed.

(2) The Central Government may, where necessary, guarantee any loan taken by the

Reconstruction Bank under sub-section (1) or any part thereof, as to the repayment of

principal and payment of interest and other incidental charges.

(3) All loans and advances granted by the Reconstruction Bank out of foreign currency

borrowed under sub-section (1) shall be expressed in terms of foreign currency as equivalent

of Indian currency, calculated in accordance with the rate of exchange prevailing in India at

the time of grant thereof, and the amount due thereunder shall be repayable in equivalent

Indian currency, calculated in accordance with the rate of exchange prevailing in India at the

time of repayment of such loan or advance.

(4) Any loss or profit in connection with any borrowing of foreign currency under sub-section

(1), for the purpose of granting loans and advances under this Act, or with its repayment to

the concerned foreign lending agency, on account of any fluctuations in the rate of exchange

accruing --

(a) during the period within which the loan or advance is repayable by the industrial

concern or the period of actual repayment thereof by the concern, whichever is longer,

shall be reimbursed by, or paid to, as the case may be, the recipients of such loans and

advances;

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

(i) shall be borne by the Reconstruction Bank in respect of normal market fluctuations

in foreign exchange;

(ii) shall be reimbursed by, or paid to, as the case may be, the Central Government in

respect of fluctuations other than the normal market fluctuations in foreign exchange.

Explanation.-- If any question arises as to whether any fluctuation as aforesaid is a

normal fluctuation or not, the same shall be decided by the Central Government whose

decision thereon shall be final.

Section 27 - Grants, donations, etc., to the Reconstruction Bank

The Reconstruction Bank may receive gifts, grants, donations or benefactions from

Government or any other source.

Section 25 - Reconstruction Assistance Fund

With effect from the appointed day, the Reconstruction Bank shall establish a special fund to

be called the Reconstruction Assistance Fund.

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Section 26 - Credits to the Reconstruction Assistance Fund

To the Reconstruction Assistance Fund shall be credited --

(a) all amounts received for the purposes of that Fund by way of loans, gifts, grants,

donations or benefactions from Government or any other source;

(b) repayments or recoveries in respect of loans, advances or other facilities granted from

the Fund;

(c) income or profits from investments made from the Fund; and

(d) income accruing or arising to the Fund by way of interest or otherwise, on account of

the application of the Fund in accordance with the provisions of section 27.

Section 27 - Utilisation of Reconstruction Assistance Fund

(1) Where the Reconstruction Bank considers it necessary or desirable so to do, it may,

subject to the provisions of sub-sections (3) and (4), disburse or spend from the

Reconstruction Assistance Fund any amount on account, or in consequence, of the grant of

any loan or advance or on account, or in consequence, of entering into any arrangement,

under section 18:

Provided that before granting any such loan or advance to an industrial concern or

entering into any such arrangement with or in relation to an industrial concern, the

Reconstruction Bank shall obtain the prior approval of the Central Government.

(2) Where the Reconstruction Bank considers it necessary or desirable so to do, it may,

subject to the provisions of sub-sections (3) and (4), disburse or spend from the

Reconstruction Assistance Fund any amount for one or more of the purposes specified in

section 18.

(3) Before seeking the approval of the Central Government under sub-section (1), the

Reconstruction Bank shall satisfy itself that the banking or other financial institutions or

other agencies are not likely to grant such loan or advance to the industrial concern or to

enter into any such arrangement with or in relation to the industrial concern in the ordinary

course of business.

(4) The Central Government shall, before giving its approval, satisfy itself that such loan,

advance or arrangement is necessary as a matter of priority in the interests of industrial

reconstruction, revival, rehabilitation or development.

(5) For the removal of doubts, it is hereby declared that nothing contained in this section

shall be deemed to preclude the Reconstruction Bank from granting any loan or advance or

from entering into any arrangement under clause (a) or under clause (b) of sub-section (1)

of section 18 without the approval of the Central Government if no amount in respect thereof

is to be disbursed or spent from the Reconstruction Assistance Fund.

Section 28 - Debits to Reconstruction Assistance Fund

(1) To the Reconstruction Assistance Fund shall be debited--

(a) such amounts as may from time to time be disbursed or spent under section 27;

(b) such amounts as may be required for discharging the liabilities in respect of loans

received for the purposes of that Fund;

(c) any loss arising on account of investment made out of that Fund; and

(d) such expenditure arising out of, or in connection with, the administration and

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application of the Fund as may be determined by the Board.

(2) No amount shall be debited to the Reconstruction Assistance Fund except as provided for

in sub-section (1)

Section 29 - Accounts and audit of Reconstruction Assistance Fund

(1) The balance-sheet and accounts of the Reconstruction Assistance Fund shall be prepared

in such form and manner, as may be provided for in the regulations.

(2) The Board shall cause the books and accounts of the Fund to be closed and balanced as

on the 30th day of June each year.

(3) The Reconstruction Assistance Fund shall be audited by one or more auditors appointed

by the Central Government under section 34 who shall make a separate report thereon.

(4) The provisions of sub sections (2), (3), (4) and (6) of section 34 shall, so far as may be,

apply in relation to the audit of the Reconstruction Assistance Fund as they apply to the audit

of the accounts of the Reconstruction Bank.

(5) The Reconstruction Bank shall furnish to the Central Government within, four months

from the date on which the accounts of the Fund are closed and balanced, a copy of the

balance-sheet and accounts together with a copy of the auditors' report and a copy of the

report on the operation of the Fund during the relevant year and the Central Government

shall as soon as may be after they are received by it cause the same to be laid before each

House of Parliament.

Section 30 - Liquidation of Reconstruction Assistance Fund

The Reconstruction Assistance Fund shall not be closed or wound up save by the order of the

Central Government and in such manner as that Government may direct.

Section 31 - General Fund

All receipts of the Reconstruction Bank other than those which are to be credited to the

Reconstruction Assistance Fund under this Act shall be credited to a Fund to be called the

General Fund and all payments by the Reconstruction Bank; other than those which are to

be debited to the Reconstruction Assistance Fund shall be made out of the General Fund.

Section 32 - Preparation of accounts and balance-sheet

(1) The balance-sheet and accounts of the Reconstruction Bank shall be prepared in such

form and manner as may be provided for in the regulations.

(2) The Board shall cause the books and accounts of the Reconstruction Bank to be closed

and balanced as on the 30th day of June each year.

Section 33 - Disposal of profits accruing to General Fund

(1) The Reconstruction Bank may establish a reserve fund to which may be transferred such

sums as that Bank may deem fit out of the annual profits accruing to the General Fund.

(2) After making provision for bad and doubtful debts, depreciation of assets and for all other

matters for which provision is necessary or expedient or which is usually provided for by

bankers and for the reserve fund referred to in sub section (1), the Reconstruction Bank

shall transfer the balance of the net profits to the Central Government.

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Section 34 - Audit

(1) The accounts of the Reconstruction Bank shall be audited by auditors duly qualified to act

as auditors under sub-section (1) of section 226 of the Companies Act, 1956 who shall be

appointed by the Central Government for such term and on such remuneration as the

Central Government may fix.

(2) The auditors shall be supplied with a copy of the annual balance-sheet of the

Reconstruction Bank and it shall be their duty to examine it together with the accounts and

vouchers relating thereto and they shall have a list delivered to them of all books kept by the

Reconstruction Bank and shall at all reasonable times have access to the books, accounts,

vouchers and other documents of the Reconstruction Bank.

(3) The auditors may, in relation to such accounts, examine any director or any officer or

other employee of the Reconstruction Bank and shall be entitled to require from the Board or

officers or other employees of the Reconstruction Bank such information and explanation as

they may think necessary for the performance of their duties.

(4) The auditors shall make a report to the Reconstruction Bank upon the annual

balance-sheet and accounts examined by them and in every such report they shall state

whether in their opinion the balance-sheet is a full and fair balance-sheet containing all

necessary particulars and properly drawn up so as to exhibit a true and fair view of the state

of affairs of the Reconstruction Bank and in case they had called for any explanation or

information from the Board or any officer or other employee of the Reconstruction Bank

whether it has been given and whether it is satisfactory.

(5) The Reconstruction Bank shall furnish to the Central Government within four months

from the date on which its accounts are closed and balanced, a copy of its balance-sheet and

accounts together with a copy of the auditors' report and a report of the working of the

Reconstruction Bank during the relevant year, and the Central Government shall, as soon as

may be after they are received by it, cause the same to be laid before each House of

Parliament,

(6) Without prejudice to anything contained in the preceding sub-sections, the Central

Government may at any time appoint the Comptroller and Auditor-General of India to

examine and report upon the accounts of the Reconstruction Bank and any expenditure

incurred by him in connection with such examination and report shall be payable by the

Reconstruction Bank to the Comptroller and Auditor-General of India.

Section 35 - Saving

Save as otherwise provided in sub-section (4) of section 29, nothing contained in this

Chapter shall apply to the Reconstruction Assistance Fund.

Section 36 - Power to impose conditions for assistance

(1) In entering into any arrangement under Section 18 with an industrial concern, the

Reconstruction Bank may impose such conditions as it may think necessary or expedient for

protecting the interests of the Reconstruction Bank, and securing that the assistance granted

by it is put to the best use by the industrial concern.

(2) Where any arrangement entered into by the Reconstruction Bank with an industrial

concern provides for the appointment by the Reconstruction Bank of one or more directors of

such industrial concern, such provision and any appointment of directors made in pursuance

thereof shall be valid and effective notwithstanding anything to the contrary contained in the

Companies Act, 1956, or in any other law for the time being in force or in the memorandum,

articles of association or any other instrument relating to the industrial concern, and any

provision regarding share qualification, age limit, number of directorships, removal from

office of directors and such like conditions contained in any such law or instrument aforesaid,

shall not apply to any director appointed by the Reconstruction Bank in pursuance of the

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arrangement as aforesaid.

(3) Any director appointed in pursuance of sub-section (2) shall --

(a) hold office during the pleasure of the Reconstruction Bank and may be removed or

substituted by any person by order in writing by the Reconstruction Bank;

(b) not incur any obligation or liability by reason only of his being a director or for

anything done or omitted to be done in good faith in the discharge of his duties as a

director or anything in relation thereto;

(c) not be liable to retirement by rotation and shall not be taken into account for

computing the number of directors liable to such retirement.

Section 37 - Assistance to industrial concern when to operate as a charge on the property

offered as security

(1) Where any person or industrial concern seeks any assistance from the Reconstruction

Bank on the security of any immovable property belonging to him or to the industrial

concern or on the security of the property of some other person whose property is offered as

a collateral security for such assistance, such person or industrial concern or, as the case

may be, such other person may execute a written declaration in the form specified in the

First Schedule stating therein the particulars of the immovable property which is proposed to

be offered as security or, as the case may be, collateral security, for such assistance and

agreeing that the dues relating to the assistance, if granted, shall be a charge on such

property, and, if, on receipt of such declaration, the Reconstruction Bank grants any

assistance to the person or the industrial concern aforesaid, the dues relating to such

assistance shall, without prejudice to the rights of any other creditor holding any prior

charge or mortgage in respect of the property so specified, be, by virtue of the provisions of

this section, a charge on the property specified in the declaration aforesaid.

(2) Where any further immovable property is offered as security for the assistance referred

to in sub-section (1), a fresh declaration shall be executed, as far as may be, in the form

specified in the First Schedule.

(3) Every declaration referred to in sub-section (1) or sub-section (2) shall be deemed to be

a document registrable as an agreement under the provisions of the Registration Act, 1908,

and no such declaration shall have effect unless it is so registered.

Section 38 - Power to call for repayment before agreed period

Notwithstanding anything contained in any agreement to the contrary, the Reconstruction

Bank may, by notice in writing, require any industrial concern to which it has granted any

assistance to discharge forthwith in full its entire dues and also discharge its other liabilities

to the Reconstruction Bank --

(a) if it appears to the Board that false or misleading information in any material

particular was given, in the application for the assistance; or

(b) if the industrial concern has failed to comply with the terms of its agreement with the

Reconstruction Bank in the matter of assistance; or

(c) if there is a reasonable apprehension that the industrial concern is unable to pay its

debts or that proceedings for liquidation has been, or may be, commenced in respect

thereof; or

(d) if the property assigned, charged, hypothecated, mortgaged or pledged to the

Reconstruction Bank as a security for assistance is not insured and kept insured by the

industrial concern to the satisfaction of the Reconstruction Bank or if such property

depreciates in value to such an extent that, in the opinion of the Board, further security

to the satisfaction of the Board should be given and such security is not given; or

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(e) if, without the permission of the Board, any machinery, plant or other equipment,

whether, forming part of the security or otherwise, is removed from the premises of the

undertaking or the industrial concern, as the case may be, without being replaced; or

(f) if for any other reason, it is necessary so to do to protect the interests of the

Reconstruction Bank.

Section 39 - Rights of Reconstruction Bank in case of default

(1) Where an assisted industrial concern, which is under a liability to the Reconstruction

Bank under any agreement with the Bank, makes any default in the payment of any dues, or

in meeting its obligation in relation to any other assistance given by the Reconstruction Bank

or otherwise fails to comply with the terms of the agreement with that Bank, the

Reconstruction Bank shall have the right to take over the management, or possession, or

both, of the industrial concern, as well as the right to transfer by way of lease or sale of the

property assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank

for the purpose of realising its dues or for the revival of the industrial concern.

(2) Any transfer of property made by the Reconstruction Bank in exercise of the powers

conferred on it by sub-section (1) shall vest in the transferee the rights in, or in relation to,

the property transferred as if the transfer had been made by the owner of such property.

(3) The Reconstruction Bank shall have the same rights and powers with respect to goods

manufactured or produced wholly or partly from goods forming part of the security held by it,

as it had with respect to the original goods.

(4) Where any action has been taken against an industrial concern under the provisions of

sub-section (1), all costs, charges and expenses which, in the opinion of the Reconstruction

Bank, have been properly incurred by it as incidental thereto, shall be recoverable from the

industrial concern and the money which is received by the Reconstruction Bank shall, in the

absence of any contract to the contrary, be held by it in trust, to be applied, firstly, in

payment of such costs, charges and expenses, and, secondly, in discharge of the dues of the

Reconstruction Bank and the residue of the money so received shall be paid to the person

entitled thereto in accordance with his rights and interests.

(5) Where the Reconstruction Bank takes over the management or possession of any

industrial concern under sub-section (1), such industrial concern may sue, and be sued, in its

name.

Section 40 - Enforcement of claims by the Reconstruction Bank

(1) (a) Where an assisted industrial concern makes any default in the payment of any dues

to, or in meeting its obligation in relation to any other assistance given by the

Reconstruction Bank or otherwise fails to comply with the terms of agreement with that

Bank, or

(b) where the Reconstruction Bank makes an order under Section 38 requiring the

assisted industrial concern to make immediate repayment of any assistance granted to it

and the industrial concern fails to make such repayment,

then, without prejudice to the provisions of Section 39 of this Act and of Section 69 of the

Transfer of Property Act, 1882, any officer of the Reconstruction Bank generally or

specifically authorised by the Board in this behalf, may apply to the concerned High Court for

one or more of the following reliefs, namely :--

(i) for an order for the sale or lease of the property assigned, charged, hypothecated,

mortgaged or pledged to the Reconstruction Bank as security for the assistance granted

to it, or for the sale or lease of any other property, of the industrial concern, or

(ii) for transferring the management of the industrial concern to the Reconstruction Bank

or to its nominee; or

(iii) for an ad interim injunction restraining the industrial concern from transferring or

removing its machinery, plant or equipment from the premises of the industrial concern

without the previous permission of the Board, where such transfer or removal is

apprehended; or

(iv) for an order for the appointment of a receiver where there is apprehension of the

machinery, equipment or any other property of substantial value which has been

assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank being

removed from the premises of the industrial concern or of being transferred without the

previous permission of the Reconstruction Bank.

(2) An application under sub-section (1) shall state the nature and extent of the liability of

the industrial concern to the Reconstruction Bank, the ground on which it is made and such

other particulars as may be necessary for obtaining the relief prayed for.

(3) Where an application is for any relief mentioned in sub-clause (i) of sub-section (1), the

High Court may,--

(a) by an order, authorise the Reconstruction Bank to grant lease of such property to

such person and on such terms and conditions as may be specified in the said order; or

(b) pass an order calling upon the person whose property has been assigned, charged,

hypothecated, mortgaged or pledged to the Reconstruction Bank to show cause, on a date

to be specified in the notice, as to why an order for the sale of such property or so much

of such property, as would, on being sold, realise, in its estimation, an amount equivalent

in value to the outstanding dues of the industrial concern to the Reconstruction Bank,

together with costs of the proceedings taken under this section, shall not be made; or

(c) pass an ad interim order attaching any property of the industrial concern which has

not been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction

Bank, or so much of such property, as would on being sold, realise, in its estimation, an

amount equivalent in value to the outstanding dues of the industrial concern to the

Reconstruction Bank, together with costs of the proceedings taken under this section, and

pass an order calling upon the industrial concern to show cause on a date to be specified

in the notice as to why such order of ad interim attachment shall not be made absolute.

(4) Where an application is for the relief mentioned in sub-clause (ii) of sub-section (1), the

High Court shall issue a notice calling upon the industrial concern to show cause, on a date

to be specified in the notice, as to why the management of the industrial concern shall not be

transferred to the Reconstruction Bank or to its nominee.

(5) Where an application is for the relief mentioned in sub-clause (iii) of sub-section (1), the

High Court shall grant an ad interim injunction restraining the industrial concern from

transferring or removing its machinery or other equipment and issue a notice calling upon

the industrial concern to show cause, on a date to be specified in the notice, as to why such

ad interim injunction shall not be made absolute.

(6) Where an application is for the relief mentioned in sub-clause (iv) of sub-section (1), the

High Court shall pass an ad interim order appointing a receiver in respect of the property

assigned, charged, hypothecated, mortgaged or pledged and shall issue a notice calling upon

the industrial concern to show cause, on a date to be specified in the notice, as to why the ad

interim order appointing the receiver shall not be made absolute,

(7) If no cause is shown, on or before the date specified in the notice issued by the High

Court, the Court shall forthwith --

(a) make an order for the sale of the property which has been assigned, charged,

hypothecated, mortgaged or pledged to the Reconstruction Bank or so much of such

property, as would, on being sold, realise, in its estimation, an amount equivalent in

value to the outstanding dues of the industrial concern to the Reconstruction Bank,

together with costs of the proceedings taken under this section;

(b) direct the sale of the attached property or the transfer of the management of the

industrial concern to the Reconstruction Bank or to its nominee;

and shall apply the proceeds of such sale for the discharge of the dues to the Reconstruction

Bank and the residue of such proceeds, if any, shall be made over to the person entitled

thereto in accordance with his rights and interests.

(c) make the ad interim injunction made under sub-section (5), and the ad interim order

of appointment of the receiver made under sub-section (6), as the case may be, absolute.

(8) If cause is shown, the High Court shall proceed to investigate the claim of the

Reconstruction Bank and the provisions of the Code of Civil Procedure, 1908, shall, as far as

practicable, apply to such proceedings.

(9) On an investigation made under sub-section (8), the High Court may pass an order,--

(a) for the sale of the property which has been assigned, charged, hypothecated,

mortgaged or pledged to the Reconstruction Bank or so much of such property, as would,

on being sold, realise, in its estimation, an amount equivalent in value to the outstanding

dues of the assisted industrial concern to the Reconstruction Bank, together with costs of

the proceedings taken under this section; or

(b) confirming the order of attachment and directing the sale of the attached property, or

the transfer of the management of the assisted industrial concern to the Reconstruction

Bank or to its nominee; or

(c) varying the order of attachment so as to release a portion of the property from

attachment and directing the sale of the remainder of the attached property;

and shall apply the proceeds of such sale for the discharge of the dues to the Reconstruction

Bank and the residue of such proceeds, if any, shall be made over to the person entitled

thereto, in accordance with his rights and interests;

(d) releasing the property from attachment, if it is satisfied, that it is not necessary in the

interests of the Reconstruction Bank; or

(e) confirming or vacating the injunction or the order for the appointment of the receiver

:

Provided that when making any order under clause (d), the High Court may make

such further orders as it thinks necessary to protect the interest of the Reconstruction

Bank, and may apportion the costs of the proceedings in such manner as it thinks fit :

Provided further that unless the Reconstruction Bank intimates to the High Court that

it will not prefer an appeal against any order releasing any property from any

attachment, such order shall not be given effect to until the expiry of the period fixed

under sub-section (12) within which an appeal may be preferred, or if an appeal is

preferred, unless the court empowered to hear appeals from the decisions of the said

High Court otherwise directs, until the appeal is disposed of.

(10) An order of attachment or sale of property under this section shall be carried into effect

as far as practicable in the manner provided in the Code of Civil Procedure, 1908, for the

attachment or sale of property in the execution of a decree as if the Reconstruction Bank

were the decree-holder.

(11) An order under this section transferring the management of any industrial concern to

the Reconstruction Bank or to its nominee shall be carried into effect as far as may be

practicable, in the manner provided in the Code of Civil Procedure, 1908, for the possession

of immovable property or the delivery of movable property in the execution of a decree, as if

the Reconstruction Bank or its nominee were the decree-holder.

(12) Any party aggrieved by an order under sub-section (3), sub-section (7) or sub-section

(9) may, within thirty days from the date of the order, prefer an appeal to the court

empowered to hear appeals from the decisions of the High Court which passed the order and

the appellate court may, after hearing the parties, pass such orders as it thinks proper.

(13) Nothing in this section shall be construed, where proceedings for liquidation in respect

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of an industrial concern have commenced before an application is made under sub-section

(1), as giving to the Reconstruction Bank any preference over the other creditors of the

industrial concern not conferred on it by any other law.

Section 41 - Power of Reconstruction Bank relating to property offered as primary or

collateral security

(1) Where a person has offered any property as security, whether primary or collateral, for

any assistance given by the Reconstruction Bank to any industrial concern, or to such

person, and a default has been committed by the industrial concern or by such person in the

payment of any dues of the Reconstruction Bank or in meeting any obligation, in relation to

the assistance given by the Reconstruction Bank to the industrial concern aforesaid, the

Reconstruction Bank shall have the right to take over the management, or possession, or

both, of the property so offered as security, and shall have the right to transfer by lease or

sale the property aforesaid for the purpose of realising its dues.

(2) Any transfer of property made by the Reconstruction Bank, in exercise of the powers

conferred on it by sub-section (1), shall vest in the transferee, the rights in or in relation to

the property transferred as if the transfer had been made by the owner of such property.

(3) Where any action has been taken under the provisions of sub-section (1) costs, charges

and expenses which, in the opinion of the Reconstruction Bank, have been properly incurred

by it as incidental thereto, shall be recoverable out of the money received by the

Reconstruction Bank by the sale or lease of the property referred to in sub-section (1) and

shall, in the absence of any contract to the contrary, be held by it in trust, to be applied,

firstly, in payment of such costs, charges and expenses and, secondly, in the discharge of the

dues of the Reconstruction Bank and the residue of the money so received shall be paid to

the person entitled thereto in accordance with his rights and interests.

(4) The Reconstruction Bank may, instead of exercising the powers conferred on it by

sub-section (1), apply for the sale or lease of the property referred to in sub section (1) or

for any other relief, to the High Court within the local limits of whose jurisdiction the

property aforesaid is situated, and, thereupon, the provisions of section 40 shall, without

prejudice to the provisions of section 69 of the Transfer of Property Act, 1882, apply thereto

as if the property aforesaid were the property referred to in section 40, and powers shall be

exercisable by the High Court accordingly.

Section 42 - Power of Reconstruction Bank to appoint directors or administrators of an

industrial concern when management thereof is taken over

(1) When the management of an industrial concern is taken over by the Reconstruction

Bank, that Bank may, by order, notified in the Official Gazette, appoint as many persons as it

thinks fit,--

(a) in any case in which the industrial concern is a company, as defined in the Companies

Act, 1956, to be the directors of that industrial concern; or

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

(2) The power to appoint directors or administrators under this section includes the power to

appoint any individual, firm or body corporate to be the manager of the industrial concern on

such terms and conditions as the Reconstruction Bank may think fit.

(3) For the removal of doubts, it is hereby declared that the power to appoint directors,

administrators or managers includes the power to remove or replace the person so

appointed.

(4) Nothing in the Companies Act, 1956 or in any other law for the time being in force or in

any instrument relating to the industrial concern shall, in so far as it makes, in relation to a

director, any provision for the holding of any share qualification, age limit, restriction on the

number of directorships, retirement by rotation or removal from office, apply to any director

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appointed by the Reconstruction Bank under this section.

Section 43 - Effect of notified order under section 42

On the issue of a notified order under section 42 --

(a) if the industrial concern is a company as defined in the Companies Act, 1956, all

persons holding office as directors of the industrial concern, and in any other case, all

persons holding any office having the powers of superintendence, direction and control of

the industrial concern, immediately before the issue of the notified order, shall be

deemed to have vacated their offices as such;

(b) any contract of management between the industrial concern and any director or

manager thereof holding office as such immediately before the issue of the notified order

shall be deemed to have terminated;

(c) the directors or administrators, appointed under section 42, shall take such steps as

may be necessary to take into their custody or under their control, the property, effects

and actionable claims to which the industrial concern is, or appears to be, entitled, and all

the property and effects of the industrial concern shall be deemed to be in the custody of

the directors or administrators, as the case may be, as from the date of the notified

order;

(d) the directors appointed under section 42 shall, for all purposes, be the directors of the

industrial concern, duly constituted under the Companies Act, 1956, and such directors,

or, as the case may be, the administrators, appointed under section 42, shall alone be

entitled to exercise all the powers of the directors, or, as the case may be, of the persons

exercising powers of superintendence, direction and control of the industrial concern,

whether such powers are derived from the said Act or from the memorandum of articles

of association of the industrial concern or from any other source whatsoever.

Section 44 - Powers and duties of directors and administrators

(1) Subject to the control of the Reconstruction Bank, the directors, or, as the case may be,

the administrators appointed under section 42, shall take such steps as may be necessary for

the purpose of efficiently managing the business of the industrial concern and shall exercise

such powers and have such duties as may be prescribed.

(2) Without prejudice to the generality of the powers vested in them under sub-section (1),

the directors, or, as the case may be, the administrators appointed under section 42, may,

with the previous approval of the Reconstruction Bank, make an application to a court for the

purpose of cancelling or varying any contract or agreement entered into at any time before

the issue of the notified order under section 42, between the industrial concern and any

other person, and the court may, if satisfied after due inquiry that such contract or

agreement had been entered into in bad faith and is detrimental to the interests of the

industrial concern, make an order cancelling or varying (either unconditionally or subject to

such conditions as it may think fit to impose) that contract or agreement and the contract or

agreement shall have effect accordingly.

Section 45 - No right to compensation for termination of contract of managing director,

etc

(1) Notwithstanding anything to the contrary contained in any contract or in any law for the

time being in force, no managing or whole-time director or any other director or a manager

or any person in charge of management of an industrial concern shall be entitled to any

compensation for the loss of office or for the premature termination, under this Act, of any

contract of management entered into by him with such concern.

(2) Nothing contained in sub-section (1) shall affect the right of any such managing or

whole-time director, or any other director or manager or any such person in charge of

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management to recover from the industrial concern, moneys recoverable otherwise than by

way of such compensation.

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