



PUBLISHED BY AUTHORITY

No. 7

CUTTACK, FRIDAY, OCTOBER 29, 1943

SEPARATE PAGINO IS GIVEN TO THIS PART, IN ORDER THAT IT MAY BE FILED AS A SEPARATE COMPILATION

PART VI

Bills introduced into the Council of the Governor General of India and
Bills published before introduction in that Council

FINANCE DEPARTMENT
NOTIFICATION

The 27th October 1943

No. 23607-F.(C).—The Public Debt (Central) Government Bill as introduced into the Central Legislative Assembly on the 25th August 1943 is republished for general information and for the purpose of eliciting public opinion thereon.

Any person or public body desiring to submit an opinion on the Bill should do so through the Provincial Government in the Finance Department only before the 20th November 1943 and any opinion thereon which is submitted direct to the Central Legislative Assembly or to any other Department of the Government of India will not be accepted.

By order of the Governor

V. RAMANATHAN,

Deputy Secretary to Government

[As introduced in the Legislative Assembly]

A

BILL

to consolidate and amend the law relating to Government securities issued by the Central Government and to the management by the Reserve Bank of India of the public debt of the Central Government

WHEREAS it is expedient to consolidate and amend the law relating to Government securities issued by the Central Government and to the management by the Reserve Bank of India of the public debt of the Central Government.

It is hereby enacted as follows:—

1. *Short title, extent and commencement*—(1) This Act may be called the Public Debt (Central Government) Act, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. *Definitions*—In this Act, unless there is anything repugnant in the subject or context,—

(1) "the Bank" means the Reserve Bank of India;

(2) "Government security" means—

(a) a security, created and issued, whether before or after the commencement of this Act, by the Central Government for the purpose of raising a public loan, and having one of the following forms, namely:—

(i) stock transferable by registration in the books of the Bank; or

(ii) a promissory note payable to order; or

(iii) a bearer bond payable to bearer; or

(iv) a form prescribed in this behalf;

(b) any other security created and issued by the Central Government in such form and for such of the purposes of this Act as may be prescribed;

(3) "prescribed" means prescribed by rules made under this Act;

(4) "promissory note" includes a treasury Bill.

3. *Transfer of Government securities*—(1) Subject to the provisions of section 5, a transfer of a Government security shall be made only in the manner prescribed for the making of transfers of securities of the class to which it belongs, and no transfer of a Government security shall be valid if—

(a) it does not purport to convey the full title to the security, or

(b) it is of such a nature as to affect the manner in which the security was expressed by the Central Government to be held.

(2) Nothing in this section shall affect any order made by the Bank, or any order made by a Court upon the Bank.

4. *Transfer of Government securities not liable for amount thereof*—Notwithstanding anything contained in the Negotiable Instruments Act, 1881 (XXVI of 1881), a person shall not, by reason only of his having transferred a Government security, be liable to pay any money due either as principal or as interest thereunder.

5. *Holding of Government securities by holders of public offices*—(1) In the case of any public office to which the Central Government may, by notification in the official Gazette, declare this sub-section to apply, a Government security in the form of stock or of a promissory note may be held in the name of the office.

(2) When a Government security is so held, it shall be deemed to be transferred without any or further endorsement or transfer deed from each holder of the office to the succeeding holder of the office on and from the date on which the latter takes charge of the office.

(3) When the holder of the office transfers to a party not being his successor in office a Government security so held, the transfer shall be made by the signature of the holder of the office and the name of the office in the manner and subject to the conditions laid down in section 3.

(4) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

6. *Notice of trust not receivable*—(1) No notice of any trust in respect of any Government security shall be receivable by the Central Government, nor shall the Central Government be bound by any such notice even though expressly given, nor shall the Central Government be regarded as a trustee in respect of any Government security.

(2) Without prejudice to the provisions of sub-section (1), the Bank may, as an act of grace and without any liability to the Bank or to the Central Government, record in its books such directions by the holder of stock for the payment of interest on, or of the maturity value of, or the transfer of, or such other matters relating to, the stock as the Bank thinks fit.

7. *Persons whose title to a Government security of a deceased sole holder may be recognised by the Bank*—Subject to the provisions of section 9 the executors or administrators of a deceased sole holder of a Government security and the holder of a succession certificate issued under Part X of the Indian Succession Act, 1925 (XXXIX of 1925), shall be the only persons who may be recognised by the Bank as having any title to the Government security.

8. *Right of survivors of joint or several holders*—Notwithstanding anything contained in section 45 of the Indian Contract Act, 1872 (IX of 1872),—

(a) when a Government security is held by two or more persons jointly and either or any of them dies, the title to the security shall vest in the survivor or survivors of those persons, and

(b) when a Government security is held by two or more persons severally and either or any of them dies, the title to the security shall vest in the survivor or survivors of those persons or in the representative of the deceased or in any of them, provided that nothing herein contained shall affect any claim which any representative of a deceased person may have against the survivor or survivors under or in respect of any security to which this section applies.

Explanation—For the purposes of this section a body incorporated under the Indian Companies Act, 1913 (VII of 1913), or the Co-operative Societies Act, 1912 (II of 1912), or any other enactment for the time being in force whether within or without British India, relating to the incorporation of associations of individuals, shall be deemed to die when it is dissolved, notwithstanding anything contained in section 7.

9. Summary procedure on death of holder of Government securities not exceeding five thousand rupees face value—If within six months of the death of a person who was the holder of a Government security or securities the face value of which does not in the aggregate exceed five thousand rupees, probate of his will or letters of administration of his estate or a succession certificate issued under Part X of the Indian Succession Act, 1925 (XXXIX of 1925) is not produced to the Bank, the Bank may determine who is the person entitled to the security or securities, or to administer the estate of the deceased and may make an order vesting the security or securities in the person so determined.

10. Government securities not exceeding five thousand rupees face value belonging to minor or insane person—When a Government security or securities belong to a minor or a person who is insane and incapable of managing his affairs, and the face value of the security or securities does not in the aggregate exceed five thousand rupees, the Bank may make such order as it thinks fit for the vesting of such security or securities in such person as it considers represents the minor or insane person.

11. Issue of duplicate securities and of new securities on conversion, consolidation, subdivision or renewal—(1) If the person entitled to a Government security applies to the Bank alleging that the security has been lost, stolen or destroyed, or has been defaced or mutilated, the Bank may, on proof to its satisfaction of the loss, theft, destruction, defacement or mutilation of the security, subject to such conditions and on payment of such fees as may be prescribed, order the issue of a duplicate security payable to the applicant.

(2) If the person entitled to a Government security applies to the Bank to have the security converted into a security of another form, or into a security issued in connection with another loan or to have it consolidated with other like securities, or to have it subdivided, or to have it renewed, the Bank may, subject to such conditions and on payment of such fees as may be prescribed, cancel the security and order the issue of a new security or securities.

(3) The person to whom a duplicate security or a new security is issued under this section shall be deemed for the purposes of section 19 to have been recognised by the Bank as the holder of the security; and a duplicate security or new security so issued to any person shall be deemed to constitute a new contract between the Central Government and such person and all persons deriving title thereafter through him.

12. Summary determination by the Bank of title to Government security in case of dispute—(1) If the Bank is of opinion that a doubt exists as to the title to a Government security, it may proceed to determine the person who shall for the purposes of the Bank be deemed to be the person entitled thereto.

(2) The Bank shall give notice in writing to each claimant of whom it has knowledge, stating the names of all other claimants and the time when and the officer of the Bank by whom the determination of the Bank will be made.

(3) The Bank shall give notice in writing to each claimant of the result of the determination so made.

(4) On the expiry of six months from the issue of the notices referred to in sub-section (3), the Bank may make an order vesting in the person, found by the Bank to be entitled to the security, the security and any unpaid interest thereon.

13. Law applicable in regard to Government securities—Notwithstanding that as a matter of convenience the Central Government may have arranged for payments on a Government security to be made elsewhere than in British India, the rights of all persons in relation to Government securities shall be determined in connection with all such questions as are dealt with by this Act by the law and in the Courts of British India.

14. Recording of evidence—(1) For the purpose of making any order which it is empowered to make under this Act, the Bank may request a District Magistrate or in an Indian State the Political Agent to record or to have recorded the whole or any part of such evidence as any person whose evidence the Bank requires may produce. A District Magistrate so requested may himself record, or may direct any Magistrate of the first class subordinate to him or any Magistrate of the second class subordinate to him and empowered in this behalf by general or special order of the Provincial Government to record the evidence, and shall forward a copy thereof to the Bank.

(2) For the purpose of making a vesting order under this Act the Bank may direct one of its officers to record the evidence of any person whose evidence the Bank requires or may receive evidence upon affidavit.

(3) A Magistrate or an officer of the Bank acting in pursuance of this section may administer an oath to any witness examined by him.

15. Postponement of payments and registration of transfers pending the making of a vesting order—Where the Bank contemplates making an order under this Act to vest a Government security in any person, the Bank may suspend payment of interest on or the maturity value of the security or postpone the making of any order under section 11 or the registration of any transfer of the security until the vesting order has been made.

16. Power of Bank to require bonds—(1) Before making any order which it is empowered to make under this Act, the Bank may require the person in whose favour the order is to be made to execute a bond with one or more sureties in such form as may be prescribed or to furnish security not exceeding twice the value of the subject-matter of the order, to be held at the disposal of the Bank, to pay to the Bank or any person to whom the Bank may assign the bond or security in furtherance of sub-section (2) the amount thereof.

(2) A Court before which a claim in respect of the subject-matter of any such order is established may order the bond or security to be assigned to the successful claimant who shall thereupon be entitled to enforce the bond or realise the security to the extent of such claim.

17. Publication of notices in official Gazette—Any notice required to be given by the Bank under this Act may be served by post, but every such notice shall also be published by the Bank in the official Gazette, and on such publication shall be deemed to have been delivered to all persons for whom it is intended.

18. Scope of vesting order—An order made by the Bank under this Act may confer the full title to a Government security or may confer a title only to the accrued and accruing interest on the security pending a further order vesting the full title.

19. Legal effect of orders made by the Bank—No recognition by the Bank of a person as the holder of a Government security, and no order made by the Bank under this Act shall be called in question by any Court so far as such recognition or order affects the relations of the Central Government or the Bank with the person recognised by the Bank as the holder of a Government security or with any person claiming an interest in such security; and any such recognition by the Bank of any person or any order by the Bank vesting a Government security in any person shall operate to confer on that person a title to the security, subject only to a personal liability to the rightful owner of the security for money had and received on his account.

20. Stay of proceedings on order of Court—Where the Bank contemplates making with reference to any Government security any order which it is empowered to make under this Act, and before the order is made the Bank receives from a Court in British India an order to stay the making of such order, the Bank shall either—

(a) hold the security together with any interest unpaid or accruing thereon until the further orders of the Court are received, or

(b) apply to the Court to have the security transferred to the Official Trustees appointed for the Province in which such Court is situated, pending the disposal of the proceedings before the Court.

21. Cancellation by the Bank of vesting proceedings—Where the Bank contemplates making an order under this Act vesting a Government security in any person the Bank may, at any time before the order is made, cancel any proceedings already taken for that purpose and may, on such cancellation, proceed anew to the making of such order.

22. Discharge in respect of interest on Government securities—Save as otherwise expressly provided in the terms of a Government security, no person shall be entitled to claim interest on such security in respect of any period which has elapsed after the earliest date on which demand could have been made for the payment of the amount due on such security.

23. Discharge in respect of bearer bonds—The Central Government shall be discharged from all liability on a bearer bond or on any interest coupon of such a bond on payment to the holder of such bond or coupon on presentation on or after the date when it becomes due of the

amount expressed therein, unless before such payment an order of a Court in British India has been served on the Central Government restraining it from making payment.

24. Period of limitation of Central Government's liability in respect of Government securities—Where no shorter period of limitation is fixed by any law for the time being in force the liability of the Central Government in respect of a Government security and of any interest payment due on it shall terminate on the expiry of six years from the date, on which the amount due on the security or due by way of interest on the security, as the case may be, became payable.

25. Inspection of documents—No person shall be entitled to inspect, or to receive information derived from, any Government security in the possession or custody of the Central Government or from any book, register, or other document kept or maintained by or on behalf of the Central Government in relation to Government securities or any Government security, save in such circumstances and manner and subject to such conditions as may be prescribed.

26. The Bank and its officers to be deemed public officers—For the purposes of section 124 of the Indian Evidence Act, 1872 (I of 1872), the provisions of Part IV of the Code of Civil Procedure, 1908 (V of 1908), relating to suits by or against public officers in their official capacity, and the provisions of rule 27 of Order V, and rule 52 of Order XXI of the said Code, the Bank and any officer of the Bank acting in his capacity as such shall be deemed to be a public officer.

27. Penalty—(1) If any person, for the purpose of obtaining for himself or for any other person any title to a Government security, makes to any authority under this Act in any application made under this Act or in the course of any inquiry undertaken in pursuance of this Act any statement which is false and which he either knows to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months, or with fine or with both.

(2) No court shall take cognisance of any offence under sub-section (1) except on the complaint of the Bank.

28. Power to make rules—(1) The Central Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules to carry out the purposes 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 forms in which Government securities may be issued;
- (b) the form of the obligations referred to in sub-clause (iv) of clause (b) of section 2;
- (c) the conditions subject to which Government securities may be issued to the rulers of Indian States;
- (d) the manner in which different forms of Government securities may be transferred;
- (e) the holding of Government securities in the form of stock by the holders of offices other than public offices, and the manner in which and the conditions subject to which Government securities so held may be transferred;
- (f) the manner in which payment of interest in respect of Government securities is to be made and acknowledged;
- (g) the conditions governing the grant of duplicate, renewed, converted, consolidated and subdivided Government securities;
- (h) the fees to be paid in respect of the issue of duplicate Government securities and of the renewal, conversion, consolidation and subdivision of Government securities;
- (i) the form in which receipt of a Government security delivered for discharge, renewal, conversion, consolidation or subdivision is to be acknowledged;
- (j) the manner of attestation of documents relating to Government securities in the form of stock;
- (k) the manner in which any document relating to a Government security or any endorsement on a promissory note issued by the Central Government may, on the demand of a person who from any cause is unable to write, be executed on his behalf;
- (l) the form of the bonds referred to in sub-section (1) of section 16;
- (m) the circumstance and the manner in which and the conditions subject to which inspection of Government securities, books, registers and other documents may be allowed or information therefrom may be given under section 25;
- (n) the procedure to be followed in making vesting orders.

29. Act X of 1920 not to apply to Government securities—The Indian Securities Act, 1920 (X of 1920), shall cease to apply to Government securities to which this Act applies, and to all matters for which provision is made by this Act.

STATEMENT OF OBJECTS AND REASONS.

The great bulk of Government obligations in India have till very recently been expressed in the form of promissory notes which pass from hand to hand by endorsement and delivery. Stock certificates, *i.e.*, certificates which are not negotiable themselves but merely record title, the actual transfers requiring registration in the books of the Public Debt Office, are of comparatively recent introduction. Not unnaturally, therefore, the law of Government securities in India started as an appendage to the law of Negotiable Instruments, modifying it where necessary to meet the peculiar circumstances of Government promissory notes such as (1) their validity for a period much longer than that of the ordinary negotiable instrument of commerce and the concomitant necessity of issuing separate instruments to replace the originals for the record of interest payments, and (2) their being held more widely than ordinary negotiable commercial instruments by various classes of investors in addition to the financial and business community. The fact that Government loans were almost entirely in the form of promissory notes meant that the special modifications of the law, effected from time to time to meet practical difficulties, only related to Government obligations held in this form, with the result that when the previous legislation was revised in the Act of 1920, a clear distinction was not always drawn between those parts of the law which ought to relate to Government securities as a whole and those which merely related to promissory notes. A striking instance of this is provided by section 13 providing for the summary provisional settlement of disputes, which is confined only to promissory notes. Although logically imperfect, this position did not in the past lead to any practical difficulties as the holders of Government loans in the form of stock certificates were comparatively few. As a result of war conditions, however, and the efforts of the Reserve Bank as agents of Government in the management of public debt to popularise stock certificates in the interest of safety and administrative convenience the proportion of Government loans held in the form of stock certificates or in special subsidiary ledger accounts, which the Bank has undertaken to maintain for large institutional holders, has substantially increased, and the time appears to be opportune for recasting the provisions of the Indian Securities Act, 1920, so as to provide more satisfactorily for the management of Central public debt.

2. Apart from the fact that section 13 of the 1920 Act fails to provide for the summary provisional settlement of disputes regarding Government loans held otherwise than as promissory notes, the machinery which it provides is in itself incomplete and there have been numerous cases where on account of a disputant contenting himself with the mere issue of a notice of dispute to the Public Debt Office and abstaining from prosecuting his claim in a court of law, or on account of vague stop orders emanating from Courts, the periodical payment of interest has been held up for unconscionably long periods, much to the annoyance and prejudice of the actual holder. There have also been numerous instances in which, where the matter has been taken to Court, Government and the Reserve Bank have been made parties to what was essentially a dispute between two private parties in the decision of which Government or the Bank had no interest. It is, therefore, considered desirable to recast this part of the law so as to provide for a summary adjudication of the Reserve Bank of disputes as to the title to be the holder of a security, with a necessary safeguard by way of a guarantee of indemnity to ensure that the interests of the party who may ultimately succeed in establishing in a court of law his right to hold the security are not prejudiced.

3. The Legislative competence of the Central Legislature extends, however, only to legislation affecting public debt of the Central Government, while the public debt of a province is subject to legislation in the Provincial Legislature only. The Act of 1920, which regulates public debt, of both kinds, is amenable to amendment by the Central Legislature only in so far as it deals with public debt of the Central Government. The present legislation therefore takes the form of a Bill to be enacted as a separate Act, applicable only to securities of the Central Government, which will reproduce the provisions of the 1920 Act with amendments designed to remedy the defects already referred to, and with certain other amendments the necessity or desirability of which is suggested by experience in the administration of the Act during the last two decades. In this reproduction of the provisions of the 1920 Act, those provisions have been rearranged so as to group together sections dealing with the incidents common to the different forms in which loans of the Central Government are held, and to relegate to separate sections the incidents peculiar to negotiable instruments.

NEW DELHI

The 15th July 1943

A. J. RAISMAN