

THE INTERNATIONAL MONETARY FUND AND BANK ACT, 1945

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SECTIONS

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THE INTERNATIONAL MONETARY FUND AND BANK ACT, 1945¹

ACT NO. 47 OF 1945¹

[24th December, 1945.]

An ²[Act] to implement the International Monetary Fund and Bank Agreements.

WHEREAS, at the United Nations Monetary and Financial Conference held at Bretton Woods, New Hampshire, in July, 1944, Articles of the following agreements were drawn up, and set out in the Final Act of the said Conference that is to say,—

(a) an agreement (hereinafter referred to as the Fund Agreement) for the establishment and operation of an international body to be called the International Monetary Fund (hereinafter referred to as the International Fund), and

(b) an agreement (hereinafter referred to as the Bank Agreement) for the establishment and operation of an international body to be called the International Bank for Reconstruction and Development (hereinafter referred to as the International Bank);

³[BE it enacted as follows:—]

1. Short title, extent and commencement.—(1) This ²[Act] may be called the International Monetary Fund and Bank ²[Act], 1945.

(2) It extends to ⁴[the whole of India ⁵ * * *].

(3) It shall come into force at once.

2. Payments to International Fund and Bank.—(1) ⁶[There shall be paid, after due appropriation made by Parliament by law in this behalf, out of the Consolidated Fund of India] all such sums as may from time to time be required for the purpose of paying—

(a) the subscriptions payable by the Central Government, to the International Fund under paragraph (a) of section 3 ⁷* * * of Article III of the Fund Agreement, and ⁸[to the International Bank under paragraphs (a) and (c)] of section 3 of Article II of the Bank Agreement;

(b) any sums payable by the Central Government to the International Fund under ⁹[section 11 of Article V] of the Fund Agreement, and to the International Bank under section 9 of Article II of the Bank Agreement;

(c) any charges payable by the Central Government to the International Fund under section 8 of Article V ¹⁰[, or under section 2, section 3 or section 5 of ¹¹[Article XX]],] of the Fund Agreement;

1. Published in the Gazette of India, Extraordinary, dated the 24th December, 1945, as Ordinance No. 47 of 1945. The Ordinance, made in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), was converted into an Act by Act 25 of 1959.

2. Subs. by Act 25 of 1959, s. 2, for “Ordinance”.

3. Subs by s. 3, *ibid.*, for the last paragraph of the preamble and the enacting formula.

4. Subs. by the A.O. 1950, for “all the Provinces of India”.

5. The words “except Part B States” omitted by Act 3 of 1951, s. 3 and the Sch.

6. Subs. by Act 41 of 1969, s. 2, for certain words (w.e.f. 26-12-1981).

7. Omitted by Act 67 of 1982, s. 2 (w.e.f. 15-1-1983).

8. Subs. by Act 25 of 1959, s. 4, for “to the International Bank under paragraph (a)”.

9. Subs. by Act 67 of 1982, s. 2, for “paragraph (b) of section of Article IV” (w.e.f. 15-1-1983).

10. Ins. by Act 41 of 1969, s. 2 (w.e.f. 26-12-1981).

11. Subs. by Act 67 of 1982, s. 2, for “Article XXVI” (w.e.f. 15-1-1983).

(d) any sums required for implementing the guarantee of the Central Government referred to in section 3 of Article XIII of the Fund Agreement;

¹[(dd) any assessments required to be paid by the Central Government to the International Fund under section 4 or section 5 of ²[Article XX] of the Fund Agreement;]

(e) any compensation required to be paid by the Central Government to the International Fund or to any member thereof under ³[Schedule I, Schedule J or Schedule K] to the Fund Agreement.

(2) The Central Government may, if it thinks fit so to do, create and issue to the International Fund or International Bank, in such form as it thinks fit, any such non-interest bearing and non-negotiable notes or other obligations as are provided for by ⁴[section 4] of Article III of the Fund Agreement and section 12 of Article V of the Bank Agreement.

3. Reserve Bank to be depository for International Fund and Bank.—The Reserve Bank of India (hereinafter referred to as the Reserve Bank) shall be the depository of the ⁵* * * Indian currency holdings of the International Fund and International Bank.

⁶[**3A. Reserve Bank to use, receive, acquire, etc., special drawing rights on behalf of Central Government.**—The Reserve Bank may, on behalf of the Central Government, use, receive, acquire, hold, transfer or operate the special drawing rights of that Government in the International Fund and perform all acts supplemental or incidental thereto.]

4. Power to call for information.—(1) Where under ⁷[paragraph (b) of section 3 of Article IV or] section 5 of Article VIII of the Fund Agreement, the International Fund requires the Central Government to furnish it with any information, the Central Government, or if generally or specially authorised by the Central Government in this behalf, the Reserve Bank, may by order in writing require any person to furnish to such officer or other person as may be specified in the order such detailed information as the Central Government or the Reserve Bank, as the case may be, may determine to be essential for the purpose of complying with the request of the International Fund; and any person so required shall be bound to furnish such information.

(2) Every officer or person to whom any information is required to be furnished under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

(3) No information obtained under this section shall be furnished to the International Fund in such detail as to disclose the affairs of any person ⁸***.

(4) A determination of the Central Government or the Reserve Bank under sub-section (1) as to the extent of detail in which information is to be furnished shall be final, and in any prosecution under section 176 or section 177 of the Indian Penal Code (45 of 1860) in respect of any information required to be furnished under this section, it shall not be a defence to assert that the information was required to be furnished in greater detail than was essential for the purpose of complying with the request of the International Fund.

(5) No prosecution for an offence in respect of any information required to be furnished under this section shall be instituted except with the previous sanction of the Central Government.

1. Ins by Act 41 of 1969, s. 2 (w.e.f. 26-12-1981).

2. Subs. by Act 67 of 1982, s. 2, for “Article XXVI” (w.e.f. 15-1-1983).

3. Subs. by s. 2, *ibid.*, for “Schedule D or Schedule E” (w.e.f. 15-1-1983).

4. Subs. by s. 2, *ibid.*, for “section 5” (w.e.f. 15-1-1983).

5. The word “British” omitted by Act 48 of 1952, s. 3 and Sch. II.

6. Ins. by Act 41 of 1969, s. 3 (w.e.f. 26-12-1981).

7. Ins. by Act 67 of 1982, s. 3 (w.e.f. 15-1-1983).

8. Certain words omitted by s. 3, *ibid.* (w.e.f. 15-1-1983).

5. Certain provisions of Agreements to have force of law.—Notwithstanding anything to the contrary contained in any other law, the provisions of the Fund and Bank Agreements set out in the Schedule shall have the force of law in ¹[India]:

Provided that nothing in section 9 of Article IX of the Fund Agreement or in section 9 of Article VII of the Bank Agreement shall be construed as—

(a) entitling the International Fund or International Bank to import into ¹[India] goods free of any duty of customs without any restriction on their subsequent sale therein, or

(b) conferring on the International Fund or International Bank any exemption from duties or taxes which form part of the price of goods sold or which are in fact no more than charges for services rendered.

6. [*Amendment of section 17, Act 2 of 1934.*] *Rep. by the Repealing and Amending Act, 1952 (48 of 1952), s. 2 and Sch.*

7. Power to make rules. — ²[(1)] The Central Government may, by notification in the Official Gazette, make rules for giving effect to the provisions set out in the Schedule, and generally for carrying out the purposes of this ³[Act].

⁴[(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or ⁵[in two or more successive sessions], and if before the expiry of ⁶[the session immediately following the session or the successive sessions aforesaid], both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. Subs. by Act 3 of 1951, s. 3 and the Sch., for “Part A States and Part C States”.

2. Renumbered as sub-section (1) by Act 25 of 1959, s. 5.

3. Subs. by s. 2, *ibid.*, for “Ordinance”.

4. Ins. by s. 5, *ibid.*

5. Subs. by Act 67 of 1982, s. 4, for “in two successive sessions” (w.e.f. 15-1-1983).

6. Subs. by s. 4, *ibid.*, for certain words (w.e.f. 15-1-1983).

THE SCHEDULE
(See section 5)
PROVISIONS OF AGREEMENTS WHICH SHALL HAVE FORCE OF LAW
PART I
FUND AGREEMENT

Paragraph (b) of section 2 of Article VIII

Exchange contracts which involve the currency of any member and which are contrary to the exchange control regulations of that member maintained or imposed consistently with this Agreement shall be unenforceable in the territories of any member.

ARTICLE IX

STATUS, IMMUNITIES AND PRIVILEGES

SECTION 1. Purpose of Article

To enable the fund to fulfil the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Fund in the territories of each member.

SECTION 2. Status of the Fund

The Fund shall possess full juridical personality, and, in particular, the capacity

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property;
- (iii) to institute legal proceedings.

SECTION 3. Immunity from judicial process

The Fund, its property and its assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that it expressly waives its immunity for the purpose of any proceedings or by the terms of any contract.

SECTION 4. Immunity from other action

Property and assets of the Fund, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

SECTION 5. Immunity of archives

The archives of the Fund shall be inviolable.

SECTION 6. Freedom of assets from restrictions

To the extent necessary to carry out the ¹[activities] provided for in this Agreement, all property and assets of the Fund shall be free from restrictions, regulations, controls and moratoria of any nature.

SECTION 7. Privilege for communications

The official communications of the Fund shall be accorded by members the same treatment as the official communications of other members.

1. Subs. by Act 67 of 1982 s. 5, for “operations” (w.e.f. 15-1-1983).

SECTION 8. *Immunities and privileges of officers and employees*

All governors, executive directors, alternates, ¹[members of committees, representatives appointed under Article XII, section 3(j), advisers of any of the foregoing persons, officers and employees] of the Fund

(i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Fund waives this immunity;

(ii) not being local nationals, shall be granted the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members;

(iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

SECTION 9. *Immunities from taxation*

(a) The Fund, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Fund shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Fund to executive directors, alternates, officers or employees of the Fund who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Fund, including any dividend or interest thereon, by whomsoever held

(i) which discriminates against such obligation or security solely because of its origin; or

(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Fund.

²[ARTICLE XXI

ADMINISTRATION OF THE GENERAL DEPARTMENT AND THE SPECIAL DRAWING RIGHTS DEPARTMENT

(a) * * * * *

(b) In addition to the privileges and immunities that are accorded under Article IX of this Agreement, no tax of any kind shall be levied on special drawing rights or on operations or transactions in special drawing rights.]

PART II

BANK AGREEMENT

ARTICLE VII

STATUS, IMMUNITIES AND PRIVILEGES

SECTION 1. *Purpose of Article*

To enable the Bank to fulfil the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Bank in the territories of each member.

1. Subs. by Act 67 of 1982, s. 5, for “officers and employees” (w.e.f. 15-1-1983).

2. Ins. by s. 5, *ibid.* (w.e.f. 15-1-1983).

SECTION 2. *Status of the Bank*

The Bank shall possess full juridical personality, and, in particular, the capacity

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property;
- (iii) to institute legal proceedings.

SECTION 3. *Position of the Bank with regard to judicial process*

Actions may be brought against the Bank only in a court of competent jurisdiction in the territories of a member in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

SECTION 4. *Immunity of assets from seizure*

Property and assets of the Bank, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

SECTION 5. *Immunity of archives*

The archives of the Bank shall be inviolable.

SECTION 6. *Freedom of assets from restrictions*

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from any restrictions, regulations, controls and moratoria of any nature.

SECTION 7. *Privilege for communications*

The official communications of the Bank shall be accorded by each member the same treatment that it accords to the official communications of other members.

SECTION 8. *Immunities and privileges of officers and employees*

All governors, executive directors, alternates, officers and employees of the Bank

(i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Bank waives this immunity;

(ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members;

(iii) shall be granted the same treatment in respect of travelling facilities as is recorded by members to representatives, officials and employees of comparable rank of other members.

SECTION 9. *Immunities from taxation*

(a) The Bank, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Bank shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to executive directors, alternates, officials or employees of the Bank who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Bank (including any dividend or interest thereon) by whomsoever held

(i) which discriminates against such obligation or security solely because it is issued by the Bank;
or

(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Bank (including any dividend or interest thereon) by whomsoever held

(i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or

(ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.
