

## Legislation Section

### THE TRADE UNIONS (AMENDMENT) ACT, 2001

#### I. INDIAN PARLIAMENT ACT NO. 31 OF 2001\*

An Act further to amend the Trade Unions Act, 1926.

Be it enacted by Parliament in the Fifty-second Year of the Republic of India as follows :

**1. Short title and commencement,** — (1) This Act may be called **the Trade Unions (Amendment) Act, 2001.**

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

**2. Amendment of section 4,** — In section 4 of the Trade unions Act, 1926, (16 of 1926) (hereinafter referred to as the principal Act), in sub-section (1), the following provisos shall be inserted at the end, namely :

“Provided that no Trade Union of workmen shall be registered unless at least ten per cent or one hundred of the workmen, whichever is less, engaged or employed in the establishment or industry with which it is connected are the members of such Trade Union on the date of making of application for registration :

Provided further that no Trade Union or workmen shall be registered unless it has on

\* This Act of Parliament received the assent of the President on September 3, 2001 and was published in the Gazette of India, Extraordinary, Part II, Section 1, No. 38 dated September 3, 2001.

the date of making application not less than seven persons as its members, who are workmen engaged or employed in the establishment or industry with which it is connected.”

**3. Amendment of section 5,** — In section 5 of the principal Act, in sub-section (1), after clause (a), the following clause shall be inserted, namely :

“(aa) in the case of a Trade Union workmen, the names, occupations and addresses of the place of work of the members of the Trade union making the application,”.

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

(a) for clause (ee), the following clause shall be substituted, namely :

“(ee) the payment of a minimum subscription by members of the Trade union which shall not be less than —

(i) one rupee per annum for rural workers;

(ii) three rupees per annum for workers in other unorganised sectors; and

(iii) twelve rupees per annum for workers in any other case.”.

(b) in clause (h), for the word “appointed”, the word “elected” shall be substituted.

(c) after clause (h), the following clause shall be inserted, namely : “(hh) the duration of period being not more than three years, for which the members of the executive and other office-bearers of the Trade Union shall be elected,”.

**5. Insertion of new section 9A.** — After section 9 of the principal Act, the following section shall be inserted, namely :

**“9A. Minimum requirement about membership of a Trade Union.** — A registered Trade union of workmen shall at all times continue to have not less than ten per cent or one hundred of the workmen, whichever is less, subject to a minimum of seven, engaged or employed in an establishment or industry with which it is connected, as its members.”.

**6. Amendment of section 10,** — In section 10 of the principal Act, after the clause (b), the following clause shall be inserted, namely :

“(c) if the Register is satisfied that a registered Trade Union of workmen ceases to have the requisite number of members.”.

**7. Amendment of section 11,** — In section 11 of the principal Act, in sub-section (1), after clause (a), the following clause shall be inserted, namely :

“(aa) where the head office is situated in an area, falling within the jurisdiction of a Labour Court or an Industrial Tribunal, to that Court or Tribunal, as the case may be,”.

**8. Substitution of new section for section 22,**

— For section 22 of the principal Act, the following section shall be substituted, namely :

**22. ’ Proportion of office-bearers to be connected with the industry,** — (1) Not less than one-half of the total number of the office-bearers of every registered Trade Union in an unorganised sector shall be persons actually engaged or employed in an industry with which the Trade Union is connected :

Provided that the appropriate Government may, by special or general order, declare that the provisions of this section shall not apply to any

Trade Union or class of Trade Unions specified in the order.

*Explanation.* — For the purposes of this section, “unorganised sector” means any sector which the appropriate Government may, by notification in the Official Gazette, specify.

(2) Save as otherwise provided in sub-section (1), all office-bearers of a registered Trade Union, except not more than one-third of the total number of the office-bearers or five, whichever is less, shall be persons actually engaged or employed in the establishment or industry with which the Trade Union is connected.

*Explanation* — For the purposes of this subsection, an employee who has retired or has been retrenched shall not be construed as outsider for the purpose of holding an office in a Trade Union.

(3) No member of the Council of Ministers or a person holding an office of profit (not being an engagement or employment in an establishment or industry with which the Trade Union is connected) in the Union or a State shall be a member of the executive or other office-bearer of a registered Trade Union.

**9. Amendment of section 29,** — In section 29 of the principal Act after sub-section (2), the following sub-section shall be inserted namely :

(3) Every notification made by the Central Government under sub-section (1) of section 22, and every regulation made by it under sub-section (1) shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or regulation, or both Houses agree that the notification or regulation should not be made, the notification or regulation 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 notification or regulation.

(4) Every notification made by the State Government under sub-section (1) of section 22 and every regulation made by it under sub-section (1) shall be laid, as soon as may be after it is made, before the State Legislature.

## **II. NON-BANKING FINANCIAL COMPANIES (RESERVE BANK) DIRECTIONS, 1998 —AMENDMENTS**

Notification No. DNBS. 154/CGM (LMF) -2002 dated January 1, 2002

The Reserve Bank of India, having considered it necessary in the public interest and being satisfied that for the purpose of enabling the Bank to regulate the credit system to the advantage of the country, it is necessary to amend the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998, in exercise of the powers conferred by Sections 45J 45K, 45L and 45MA of the Reserve Bank of India Act, 1934 (2 of 1934) and of all the powers enabling it in this behalf, hereby directs that the said directions contained in Notification No. DFC. 118/DG (SPT)/98 dated January 31, 1998 shall stand amended, with immediate effect, as follows, namely —

1. In paragraph 6, in sub paragraph (1), the words,“ , or a non banking financial company may entrust such securities to the Stock Holding Corporation of India Ltd., with the prior approval, in writing, of regional office of the Reserve Bank of India under whose jurisdiction the registered office of the company is situated as specified in Second Schedule hereto, subject to such conditions as may be specified by the Reserve Bank of India in this behalf”, shall be deleted.

2. In paragraph 6, in sub paragraph (1), for the existing proviso, the following proviso shall be substituted, namely, —

“Provided that where a non-banking financial company intends to entrust these securities to Stock Holding Corporation of India Ltd. or to its designated bankers at a place other than the place at which its registered office is located or to keep them in the form of Constituent’s Subsidiary General Ledger Account with a scheduled commercial bank, or with a depository participant registered with Securities and Board of India under Securities and Exchange Board of India Act, 1992 (15 of 1992), it shall obtain the prior approval in writing, of Regional Office of the Reserve Bank of India under whose jurisdiction the registered office of the company is situated, as specified in Second Schedule hereto.”

3. In paragraph 6, for sub-paragraph (2) the following sub-paragraph shall be substituted, namely, —

“(2) the securities mentioned in sub-paragraph (1) above shall continue to be entrusted to such designated banker or the Stock Holding Corporation of India Ltd. or the depository participant or held in the constituent’s Subsidiary General Ledger account with the scheduled commercial bank for the benefit of the depositors and shall not be withdrawn or encashed or otherwise dealt with by the non-banking financial company except for repayment to the depositors.”

### **III. NON-BANKING FINANCIAL COMPANIES PRUDENTIAL NORMS (RESERVE BANK) DIRECTIONS, 1998 — AMENDMENTS**

Notification No. DNBS. 155/CGM (LMF) -2002 dated January 1, 2002

The Reserve Bank of India, having considered it necessary in the public interest, and being satisfied that, for the purpose of enabling the Bank to regulate the credit system to the advantage of the country, it is necessary to amend the Non-Banking Financial Companies Prudential Norms (Reserve Bank) Directions, 1998, in exercise of the powers conferred by section 45JA of the reserve Bank of India Act, 1934 (2 of 1934) and of all the powers enabling it in this behalf, hereby directs that the said directions contained in Notification No. DFC.

119/DG(SPT)/98 dated January 31, 1998 shall stand amended with immediate effect as follows, namely. -

1. In paragraph 8, in sub-paragraph (2), after note (5), the following note shall be inserted, namely, -

“(6) All financial leases written on or after April 1, 2001 attract the provisioning requirements as applicable to hire purchase assets.”

2. In paragraph 9A the following explanations shall be inserted, namely, -

“Explanation I : The Audit Committee constituted by an NBFC as required under Section 292-A of the Companies Act, 1956 (1 of 1956) shall be the Audit

Committee for the purposes of this paragraph.

Explanation II : The Audit Committee constituted under this paragraph shall have the same powers, functions, and duties as laid down in Section 292(A) of the Companies Act, 1956 (1 of 1956)”

3. In paragraph 11B, after the explanation, the following proviso shall be inserted, namely, -

“Provided further that the above ceiling on the investment in unquoted shares shall not be to an equipment leasing company or a hire purchase finance company or a loan company or an investment company in respect of investment in the equity capital of an insurance company upto the extent specifically permitted, in writing, by the Reserve Bank of India.”

4. In paragraph 12, after first proviso, the following proviso shall be inserted, namely, -

“Provided further that the above ceiling on the investment in shares of another company shall not be applicable to an NBFC in respect of investment in the equity capital of an insurance company upto the extent specifically permitted, in writing, by the Reserve Bank of India.”

#### **IV. RESIDUARY NON-BANKING COMPANIES (RESERVE BANK) DIRECTIONS, 1987 —AMENDMENTS**

Notification No. DNBS.156/CGM (LMF) -2002 dated January 1, 2002

The Reserve Bank of India, having considered it necessary in the public interest and being satisfied that, for the purpose of enabling the Bank to regulate the credit system to the advantage of the country, it is necessary to amend the Residuary Non-Banking Companies (Reserve Bank) Directions, 1987, hereby, in exercise of the powers conferred by Section 45J, 45K, 45L and 45JA of the Reserve Bank of India Act, 1934 (2 of 1934) and all the powers enabling it in this behalf, directs that the said Directions contained in Notification No. DFC.55/DG(O)-87 dated the 15 the May 1987 shall, stand amended with immediate effect, as follows, namely :-

1. In paragraph 6, in sub-paragraph (2), for he words, “public sector banks”, the words, “scheduled commercial banks”, shall be substituted.
2. In paragraph 6, after sub paragraph (2), the following proviso shall be inserted, namely, -

“Provided that where a residuary non-banking company intends to entrust these securities to Stock Holding Corporation of India Ltd., or to its designated banker at a place other than the place at which its registered office is located or to keep them in the form of Constituent’s Subsidiary General Ledger Account with a scheduled commercial bank, or with a depository participant registered with Securities and Exchange Board of India under Securities and Exchange Board of India Act, 1992 (15) of 1992), it shall obtain the prior approval, in writing, of Regional Office of the Reserve Bank of India under whose jurisdiction the registered office of the company is situated, as specified in Schedule B hereto.”