

# **JOINT/SELECT COMMITTEE REPORTS OF LEGISLATIVE ASSEMBLY -1947**

## **The Foreign Exchange Regulations Bill**

**I. List of Reports of Select Committees  
presented to the Legislative Assembly  
of the Indian Legislature in 1947.**

S.No.	Short title of the Bill.	Date of presen- tation.	Date of publica- tion.
1.	The Indian Navy (Discipline) (Amendment) Bill.	3.2.1947.	15.2.1947
2.	The Motor Vehicles (Amendment) Bill.	3.2.1947.	15.2.1947
3.	The Motor Vehicles (Second Amendment) Bill.	3.2.1947.	15.2.1947
4.	The Foreign Exchange Regulation Bill.	3.2.1947.	15.2.1947
5.	The Industrial Disputes Bill.	3.2.1947.	15.2.1947
6.	The Railways (Transport of Goods) Bill.	17.2.1947.	1.3.1947
7.	The Banking Companies Bill.	17.2.1947.	1.3.1947
8.	The Indian Trade Unions (Amendment) Bill.	26.2.1947.	5.4.1947
9.	The Insurance (Second Amendment) Bill.	5.3.1947.	15.3.1947
10.	The Delhi and Ajmer-Merwara Rent Control Bill.	12.3.1947.	22.3.1947
11.	The Imports and Exports (Control) Bill.	12.3.1947.	22.3.1947
12.	The Income-tax and Excess Profits Tax (Amendment) Bill.	19.3.1947.	29.3.1947
13.	The Business Profits Tax Bill.	19.3.1947.	29.3.1947
14.	The Rubber (Production and Marketing) Bill.	1.4.1947.	12.4.1947
15.	The Control of Shipping Bill.	1.4.1947.	12.4.1947
16.	The Capital Issues (Continuance of Control) Bill.	7.4.1947.	12.4.1947

S.No.	Short title of the Bill.	Date of presenta- tion.	Date of publica- tion.
17.	The Taxation on Income (Investigation Commission) Bill.	7. 4.1947.	19. 4.19

II. List of Reports of Select Committees  
Presented to the ~~Lakas~~ Constituent  
Assembly of India (Legislative) in  
1947.

1. The Delhi and Ajmer-Merwara  
Rent Control (Amendment) Bill. 1. 12.1947. 13.12.19
2. The Delhi Premises (Requisi-  
tion and Eviction) Bill. 1.12.1947. 13.12.19
3. The Extra-Provincial Juris-  
diction Bill. 6.12.1947. 13.12.19

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## LEGISLATIVE ASSEMBLY

### *Report of the Select Committee on the Foreign Exchange Regulation Bill, 1946*

We, the undersigned, members of the Select Committee to which the Bill to regulate certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Transactions in foreign exchange are at present regulated under the Emergency Provisions (Continuance) Ordinance, 1946. Under the relevant provisions continued by that Ordinance exemptions in respect of transactions within the so-called "sterling area" have been given by means of a definition of that expression. A similar method has been adopted in the Exchange Control Act, 1946, recently enacted by Parliament, in which a Schedule of "scheduled territories" has been included. The present Bill contains no such Schedule, but has provision for the making of the necessary exemptions by executive order. We considered the question of recasting the Bill to introduce such a Schedule but have decided against that course.

Throughout the Bill we make one formal change. In the Bill as introduced it referred to "general or special permission" in some places and merely to "permission" in others. For the sake of uniformity we have adopted the former expression in all cases, unless the context clearly refers to an *ad hoc* permission. We also propose some formal changes in addition to those on which we comment below.

*Clause 1.*—While we appreciate that the regulation of dealings in foreign exchange will be necessary for some years to come, we do not consider that the Bill should purport to be a permanent measure. We therefore propose a duration clause of five years in the first instance, giving power to Government to extend that period by a further period not exceeding three years.

*Clause 2.*—We amend the definition of gold to make it clear that the Bill will extend to gold in any form.

*Clause 5.*—This Bill will have certain personal extra-territorial application, and we think that the persons concerned who are earning a livelihood in a foreign country should be freed from even a technical liability under the Bill when they spend foreign currency which they have earned abroad.

*Clause 8.*—The mischief of sub-clause (2) may be avoided if the export of jewellery and precious stones is not controlled, and we propose an addition to the sub-clause accordingly.

*Clause 11.*—We consider that the powers taken in the Bill are rather too wide and we propose limiting them to first dealings in imported gold and silver.

*Clause 16.*—Government's powers under this clause should be expressed as being exercised for the purpose of strengthening its *exchange* position rather than its *financial* position generally, and we propose an amendment accordingly.

*Clause 18 (2).*—We consider that the regulation of loans to foreign companies should be extended to cover loans to foreign individuals.

*Clause 19 (3).*—We think that powers of entry, search and seizure should not be conferred on police officers below the rank of sub-inspector.

*Clause 21.*—We insert a provision to make it clear that the restrictions on negotiability which may be imposed under the Bill do not affect the status of Bills of exchange or promissory notes as such. Similar provision occurs in the Act of Parliament.

*Clause 22.*—We consider the concluding words too drastic inasmuch as they cover also the inadvertent and *bona fide* error, and propose a modification accordingly.

*Clause 23.*—To sub-clause (1) we give power to the Courts to order the confiscation of property in respect of which offences have been committed. If the burden of proof is under clause 24 to be thrown on the accused, we consider that it should be made absolutely clear that before a prosecution is launched the accused should have been given an opportunity of showing that he had the required permission. We add a proviso in this sense to sub-clause (2). We also add the normal provision dealing with offences committed by corporate bodies.

2. The Bill was published in the Gazette of India, Part V, dated 9th November, 1946.

3. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

JOGENDRA NATH MANDAL.  
LIAQUAT ALI KHAN.  
K. G. AMBEGAONKAR.  
H. D. CAYLEY.  
ZIAUDDIN AHMED.  
MOHAMMAD YAMIN KHAN.  
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SATYA NARAYAN SINHA.  
N. G. RANGA.

#### MINUTE OF DISSENT

In the Statement of Objects and Reasons it was explained that the Bill embodies the financial provisions of the Defence of India Rules relating to exchange control with certain modifications and amendments which experience over the past six years has shown to be desirable in the interests of clarity and effectiveness. But it will be noticed that the Bill makes a definite change in the Defence of India Rules in as much as the so-called sterling area has been included in the Bill while it was expressly excluded from the Rules. As explained in the second para. of the Select Committee's Report the Select Committee considered the advisability of excluding the sterling area by providing for a Schedule of "scheduled territories". If this had been done, the Bill would have correctly represented the present intentions of Government. The Bill as it stands does not do so. Along with the Schedule there would have been a provision where by Government would have had the power to change the schedule, without notice, whenever they thought the interest of the country so demanded. As the Bill stands, the intentions of Government will have to be carried out by executive order. I do not consider this a satisfactory method of legislation. ||

COWASJEE JEHangIR.

NEW DELHI,  
The 3rd February, 1947. }

\*Subject to a minute of dissent.

(Words underlined or sidelined indicate the amendments suggested by the Committee; asterisks indicate omissions.)

A

## BILL

*to regulate certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion.*

WHEREAS it is expedient in the economic and financial interests of India to provide for the regulation of certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion;

It is hereby enacted as follows:—

1. (1) This Act may be called the Foreign Ex- Short title, extent, commencement and duration.

(2) It extends to the whole of British India, and applies also to British subjects and servants of the Crown in any part of India, and to British subjects who are domiciled in any part of India wherever they may be.

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

(4) It shall remain in force for five years only, but the Central Government may, by notification in the official Gazette, direct that it shall remain in force for a further period not exceeding three years.

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

(a) “authorised dealer” means a person for the time being authorised under section 3 to deal in foreign exchange;

(b) “currency” includes all coins, currency notes, bank notes, postal notes, money orders, cheques, drafts, traveller’s cheques, letters of credit, bills of exchange and promissory notes;

(c) “foreign currency” means any currency other than Indian currency;

(d) “foreign exchange” means foreign currency and includes all deposits, credits and balances payable in any foreign currency, and any drafts, travellers’ cheques, letters of credit and bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency;

(e) "foreign security" means any security issued elsewhere than in India, and any security the principal of or interest on which is payable in any foreign currency or elsewhere than in India ;

(f) "gold" includes gold in the form of coin, whether legal tender or not, or in the form of bullion or ingot, whether refined or not ;

(g) "Indian currency" means currency which is expressed or drawn in Indian rupees ;

(h) "owner", in relation to any security, includes any person who has power to sell or transfer the security, or who has the custody thereof or who receives, whether on his own behalf or on behalf of any other person, dividends or interest thereon, and who has any interest therein, and in a case where any security is held on any trust or dividends or interest thereon are paid into a trust fund, also includes any trustee or any person entitled to enforce the performance of the trust or to revoke or vary, with or without the consent of any other person, the trust or any terms thereof, or to control the investment of the trust moneys ;

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

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

(k) "security" means shares, stocks, bonds, debentures, debenture stock and Government securities, as defined in the Indian Securities Act, 1920, X of 1920 deposit receipts in respect of deposits of securities, and units or sub-units of unit trusts, but does not include bills of exchange or promissory notes other than Government promissory notes ;

(l) "silver" means silver bullion or ingot, silver sheets and plates which have undergone no process of manufacture subsequent to rolling and uncurrent silver coin which is not legal tender in India or elsewhere ;

(m) "transfer" includes, in relation to any security, transfer by way of loan or security.

Authorised  
dealers in  
foreign  
exchange.

3. (1) The Reserve Bank may, on application made to it in this behalf, authorise any person to deal in foreign exchange.

(2) An authorisation under this section—

(i) may authorise dealings in all foreign currencies or may be restricted to authorising dealings in specified foreign currencies only ;

(ii) may authorise transactions of all descriptions in foreign currencies or may be restricted to authorising specified transactions only ;

(iii) may be granted to be effective for a specified period, or within specified amounts, and may in all cases be revoked for reasons appearing to it sufficient by the Reserve Bank.

(3) An authorised dealer shall in all his dealings in foreign exchange comply with such general or special directions or instructions as the Reserve Bank may from time to time think fit to give, and, except with the previous permission of the Reserve Bank, an authorised dealer shall not engage in any transaction involving any foreign exchange which is not in conformity with the terms of his authorisation under this section.

(4) An authorised dealer shall, before undertaking any transaction in foreign exchange on behalf of any person, require that person to make such declarations and to give such information as will reasonably satisfy him that the transaction will not involve, and is not designed for the purpose of, any contravention or evasion of the provisions of this Act or of any rules, directions or orders made thereunder, and where the said person refuses to comply with any such requirement or makes only unsatisfactory compliance therewith, the authorised dealer shall refuse to undertake the transaction and shall, if he has reason to believe that any such contravention or evasion as aforesaid is contemplated by the person, report the matter to the Reserve Bank.

4. (1) Except with the previous general or special permission of the Reserve Bank, no person other than an authorised dealer shall in British India, and no person resident in British India other than an authorised dealer shall outside British India, buy or borrow from, or sell or lend to, or exchange with, any person not being an authorised dealer, any foreign exchange. Restrictions on dealing in foreign exchange

(2) Except with the previous general or special permission of the Reserve Bank, no person whether an authorised dealer or otherwise, shall enter into any transaction which provides for the conversion of Indian currency into foreign currency or \* foreign currency into Indian currency at rates of exchange other than the rates for the time being authorised by the Reserve Bank.

(3) Where any foreign exchange is acquired by any person other than an authorised dealer for any particular purpose, or where any person has been permitted conditionally to acquire foreign exchange, the said person shall not use the foreign exchange so acquired otherwise than for that purpose or, as the case may be, fail to comply with any condition to which the permission granted to him is subject, and where any foreign exchange so acquired cannot be so used or, as the case may be, the conditions cannot be complied with, the said person shall without delay sell the foreign exchange to an authorised dealer.

(4) Nothing in this section shall be deemed to prevent a person from buying from any post office, in accordance with any law or rules made thereunder for the time being in force, any foreign exchange in the form of postal orders or money orders.



**Restrictions on  
payments**

5. (1) Save as may be provided in and in accordance with any general or special exemption from the provisions of this sub-section which may be granted conditionally or unconditionally by the Reserve Bank, no person in, or resident in, British India shall—

(a) make any payment to or for the credit of any person resident outside India ;

(b) draw, issue or negotiate any bill of exchange or promissory note or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment \* \* is created or transferred in favour of any person resident outside India ;

(c) make any payment to or for the credit of any person \* \* \* by order or on behalf of any person resident outside India ;

(d) place any sum to the credit of any person resident outside India ;

(e) make any payment to or for the credit of any person \* \* \* as consideration for or in association with—

(i) the receipt by any person of a payment or the acquisition by any person of property outside India ;

(ii) the creation or transfer in favour of any person of a right whether actual or contingent to receive a payment or acquire property outside India ;

(f) draw, issue or negotiate any bill of exchange or promissory note, transfer any security or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment \* \* is created or transferred in favour of any person \* \* \* as consideration for or in association with any matter referred to in clause (e).

(2) Nothing in sub-section (1) shall render unlawful—

(a) the making of any payment already authorised, either with foreign exchange obtained from an authorised dealer under section 4 or with foreign exchange retained by a person in pursuance of an authorisation granted by the Reserve Bank;

(b) the making of any payment with foreign exchange received by way of salary or payment for services not arising from business in, or anything done while in, India.

(3) Nothing in this section shall restrict the doing by any person of anything within the scope of any authorisation or exemption granted under this Act.

(4) For the purposes of this section, "security" also includes coupons or warrants representing dividends or interest and life or endowment insurance policies.

6. (1) Where an exemption from the provisions of section 5 is granted by the Reserve Bank in respect of payment of any sum to any person resident outside

**Blocked  
accounts**

**India and the exemption is made subject to the condition that the payment is made to a blocked account—**

(a) the payment shall be made to a blocked account in the name of that person in such manner as the Reserve Bank may by general or special order direct; and

(b) the crediting of that sum to that account shall, to the extent of the sum credited, be a good discharge to the person making the payment.

(2) No sum standing at the credit of a blocked account shall be drawn on except in accordance with any general or special permission which may be granted conditionally or otherwise by the Reserve Bank.

(3) In this section "blocked account" means an account opened as a blocked account at any office or branch in British India of a bank authorised in this behalf by the Reserve Bank, or an account blocked, whether before or after the commencement of this Act, by order of the Reserve Bank.

7. (1) Where in the opinion of the Central Government it is necessary or expedient to regulate payments due to persons resident in any territory, the Central Government may, by notification in the official Gazette, direct that such payments or any class of such payments shall be made only into an account (hereinafter referred to as a special account) to be maintained for the purpose by the Reserve Bank or an authorised dealer specially authorised by the Reserve Bank in this behalf. Special accounts

(2) The credit of a sum to a special account shall, to the extent of the sum credited, be a good discharge to the person making the payment:

Provided that where the liability of the person making the payment is to make the payment in foreign currency, the extent of the discharge shall be ascertained by converting the amount paid into that currency at such rate of exchange as is for the time being fixed or authorised by the Reserve Bank.

(3) The sum standing to the credit of any special account shall from time to time be applied—

(a) where any agreement is entered into between the Central Government and the Government of the territory to which the aforesaid notification relates for the regulation of payments between persons resident in British India and in that territory, in such manner as the Reserve Bank, having regard to the provisions of such agreement, may direct, or

(b) where no such agreement is entered into, for the purpose of paying wholly or partly, and in such order of preference and at such times as the Central Government may direct, debts due from the persons resident in the said territory to persons resident in British India or in such other territories as the Central Government may by order specify in this behalf.

Restrictions  
on import  
and export  
of certain  
currency and  
bullion

8. (1) The Central Government may, by notification in the official Gazette, order that, subject to such exemptions, if any, as may be contained in the notification, no person shall, except with the general or special permission of the Reserve Bank and on payment of the fee, if any, prescribed bring or send into British India any gold or silver or any currency notes or bank notes or coin whether Indian or foreign.

(2) No person shall, except with the general or special permission of the Reserve Bank or the written permission of a person authorised in this behalf by the Reserve Bank, take or send out of British India any gold, jewellery or precious stones, or Indian currency notes, bank notes or coin or foreign exchange other than foreign exchange obtained from an authorised dealer.

(3) The restrictions imposed by sub-sections (1) and (2) shall be deemed to have been imposed under section 19 of the Sea Customs Act, 1878, VIII of 1878 without prejudice to the provisions of section 23 of this Act, and all the provisions of that Act shall have effect accordingly.

Acquisition  
by Central  
Government  
of foreign  
exchange

9. The Central Government may, by notification in the official Gazette, order every person in, or resident in, British India—

(a) who owns such foreign exchange as may be specified in the notification, to offer it, or cause it to be offered for sale \* \* \* \* \*, to the Reserve Bank on behalf of the Central Government or to such person as the Reserve Bank may authorise for the purpose, at such price as the Central Government may fix, being a price which is in the opinion of the Central Government not less than the market rate of the foreign exchange when it is offered for sale ;

(b) who is entitled to assign any right to receive such foreign exchange as may be specified in the notification, to transfer that right to the Reserve Bank on behalf of the Central Government on payment of such consideration therefor as the Central Government may fix :

Provided that the Central Government may by the said notification or another order exempt any persons or class of persons from the operation of such order :

Provided further that nothing in this section shall apply to any foreign exchange acquired by a person from an authorised dealer and retained by him with the permission of the Reserve Bank for any purpose.

10. (1) No person who has a right to receive any foreign exchange or to receive from a person resident outside India a payment in rupees shall, except with the general or special permission of the Reserve Bank, do or refrain from doing any act with intent to secure—

Duty of persons entitled to receive foreign exchange, etc.

(a) that the receipt by him of the whole or part of that foreign exchange or payment is delayed, or

(b) that the foreign exchange or payment ceases in whole or in part to be receivable by him.

(2) Where a person has failed to comply with the requirements of sub-section (1) in relation to any foreign exchange or payment in rupees, the Reserve Bank may give to him such directions as appear to be expedient for the purpose of securing the receipt of the foreign exchange or payment as the case may be.

11. The Central Government may, by notification in the official Gazette, impose such conditions as it thinks necessary or expedient on the use or disposal of or dealings in gold and silver prior to, or at the time of, import into British India.

Power to regulate the uses, etc., of imported gold and silver

12. (1) The Central Government may, by notification in the official Gazette, prohibit the export of any goods or class of goods specified in the notification from British India directly or indirectly to any place so specified unless a declaration supported by such evidence as may be prescribed or so specified, is furnished by the exporter to the prescribed authority that the amount representing the full export value of the goods has been, or will within the prescribed period be, paid in the prescribed manner.

Payment for exported goods

(2) Where any export of goods has been made to which a notification under sub-section (1) applies, no person entitled to sell, or procure the sale of, the said goods shall, except with the permission of the Reserve Bank, do or refrain from doing any act with intent to secure that —

(a) the sale of the goods is delayed to an extent which is unreasonable having regard to the ordinary course of trade, or

(b) payment for the goods is made otherwise than in the prescribed manner or does not represent the full amount payable by the foreign buyer in respect of the goods, subject to such deductions, if any, as may be allowed by the Reserve Bank, or is delayed to such extent as aforesaid :

Provided that no proceedings in respect of any contravention of this sub-section shall be instituted unless the prescribed period has expired and payment for the goods representing the full amount as aforesaid has not been made in the prescribed manner.

(3) Where in relation to any such goods the said period has expired and the goods have not been sold and payment therefor has not been made as afore-

said, the Reserve Bank may give to any person entitled to sell the goods or to procure the sale thereof, such directions as appear to it to be expedient for the purpose of securing the sale of the goods and payment therefor as aforesaid, and without prejudice to the generality of the foregoing provision, may direct that the goods shall be assigned to the Central Government or to a person specified in the directions.

(4) Where any goods are assigned in accordance with sub-section (3), the Central Government shall pay to the person assigning them such sum in consideration of the net sum recovered by or on behalf of the Central Government in respect of the goods as may be determined by the Central Government.

(5) Where in relation to any such goods the value as stated in the invoice is less than the amount which in the opinion of the Reserve Bank represents the full export value of those goods, the Reserve Bank may issue an order requiring the person holding the shipping documents to retain possession thereof until such time as the exporter of the goods has made arrangements for the Reserve Bank or a person authorised by the Reserve Bank to receive on behalf of the exporter payment in the prescribed manner of an amount which represents in the opinion of the Reserve Bank the full export value of the goods.

(6) For the purpose of ensuring compliance with the provisions of this section and any orders or directions made thereunder, the Reserve Bank may require any person making any export of goods to which a notification under sub-section (1) applies to exhibit contracts with his foreign buyer or other evidence to show that the full amount payable by the said buyer in respect of the goods has been, or will within the prescribed period be, paid in the prescribed manner.

**Regulation  
of export  
and transfer  
of securities**

13. (1) No person shall, except with the general or special permission of the Reserve Bank,—

(a) take or send any security to any place outside India ;

(b) transfer any security or create or transfer any interest in a security to or in favour of a person resident outside India ;

(c) transfer any security from a register in British India to a register outside India or do any act which is calculated to secure, or forms part of a series of acts which together are calculated to secure, the substitution for any security which is either in, or registered in, British India, of any security which is either outside or registered outside India ;

(d) issue, whether in British India or elsewhere, any security which is registered or to be registered in British India, to a person resident outside India.

(2) Where the holder of a security is a nominee, neither he nor any person through whose agency the exercise of all or any of the holder's rights in respect of the security is controlled shall, except with the general or special permission of the Reserve Bank, do any act whereby he recognises or gives effect to the substitution of another person as the person from whom he directly receives instructions, unless both the persons previously instructing him and the person substituted for that person were, immediately before the substitution, resident in India.

(3) The Reserve Bank may, for the purpose of securing that the provisions of this section are not evaded, require that the person transferring any security and the person to whom such security is transferred shall subscribe to a declaration that the transferee is not resident outside India.

(4) Notwithstanding anything contained in any other law, no person shall, except with the permission of the Reserve Bank,—

(a) enter any transfer of securities in any register or book in which securities are registered or inscribed if he has any ground for suspecting that the transfer involves any contravention of the provisions of this section, or

(b) enter in any such register or book, in respect of any security, whether in connection with the issue or transfer of the security or otherwise, an address outside India except by way of substitution for any such address in the same country or for the purpose of any transaction for which permission has been granted under this section with knowledge that it involves entry of the said address.

(5) For the purposes of this section,—

(a) "holder" in relation to a bearer security means the person having physical custody of the security; provided that, where a bearer security is deposited with any person in a locked or sealed receptacle from which the person with whom it is deposited is not entitled to remove it without the authority of some other person, that other person shall be deemed to be the holder of the security;

(b) "nominee" means a holder of any security (including a bearer security) or any coupon representing dividends or interest who, as respects the exercise of any rights in respect of the security or coupon, is not entitled to exercise those rights except in accordance with instructions given by some other person, and a person holding a security or coupon as a nominee shall be deemed to act as nominee for the person who is entitled to give instructions either directly or through the agency of one or more persons, as to the exercise by the holder of the security or coupon of any rights in

respect thereof and is not, in so doing, himself under a duty to comply with instructions given by some other person ;

(c) "security" also includes coupons or warrants representing dividends or interest, and life or endowment insurance policies.

Custody of  
securities

14. (1) The Central Government may, by notification in the official Gazette, order every person by whom or on whose behalf a security or document of title to a security specified in the order is held in British India to cause the said security or document of title to be kept in the custody of an authorised depository named in the order :

Provided that the Reserve Bank may by order in writing permit any such security to be withdrawn from the custody of the authorised depository subject to such conditions as may be specified in the order.

(2) No authorised depository may part with any security covered by an order under sub-section (1) without the general or special permission of the Reserve Bank except to, or to the order of, another authorised depository.

(3) Except with the general or special permission of the Reserve Bank, no authorised depository shall—

(a) accept or part with any security covered by an order under sub-section (1) whereby the security is transferred into the name of a person resident outside India, or

(b) do any act whereby he recognises or gives effect to the substitution of another person as the person from whom he directly receives instructions relating to such security unless the person previously so instructing him and the person substituted for that person were immediately before the substitution resident in India.

(4) Except with the general or special permission of the Reserve Bank, no person shall buy, sell or transfer any security, or document of title to a security, covered by an order under sub-section (1) unless such security or document of title has been deposited in accordance with the order.

(5) Except with the general or special permission of the Reserve Bank, no capital moneys, interest or dividends in respect of any security covered by an order \* under sub-section (1) shall be paid in British India except to or to the order of the authorised depository having the custody of the security.

(6) For the purposes of this section,—

(a) "authorised depository" means a person notified by the Central Government to be entitled to accept the custody of securities and documents of title to securities, and

(b) "security" shall include coupons.

15. The Central Government may, by notification in the official Gazette, order that except with the general or special permission of the Reserve Bank no person shall in British India issue any bearer security or coupon or so alter any document that it becomes a bearer security or coupon. Restrictions on issue of bearer securities

16. (1) Subject to any exemptions that may be contained in the notification, the Central Government may, if it is of opinion that it is expedient so to do for the purpose of strengthening its foreign exchange position by notification in the official Gazette,— Acquisition by Central Government of foreign securities

(a) order the transfer to itself of any foreign securities specified in the notification at a price so specified, being a price which is, in the opinion of the Central Government not less than the market value of the securities on the date of the notification, or

(b) direct the owner of any foreign securities specified, in the notification to sell or procure the sale of the securities and thereafter to offer or cause to be offered the net foreign exchange proceeds of the sale to the Reserve Bank on behalf of the Central Government or to such person as the Reserve Bank may authorise for the purpose, at such price as the Central Government may fix, being a price which is in the opinion of the Central Government not less than the market rate of the foreign exchange when it is offered for sale.

(2) On the issue of a notification under clause (a) of sub-section (1),—

(a) the securities to which the notification relates shall forthwith vest in the Central Government free from any mortgage, pledge or charge, and the Central Government may deal with them in such manner as it thinks fit ;

(b) the owner of any of the securities to which the notification relates and any person who is responsible for keeping any registers or books in which any of those securities are registered or inscribed, or who is otherwise concerned with the registration or inscription of any of those securities, shall do all such things as are necessary or as the Central Government or the Reserve Bank may order to be done, for the purpose of securing that—

(i) the securities and any documents of title relating thereto are delivered to the Central Government and, in the case of registered or inscribed securities, that the securities are registered or inscribed in the name of the Central Government or of such nominee of the Central Government as it may specify, and

(ii) any dividends or interest on those securities becoming payable on or after the date of the issue of the notification are paid



to the Central Government or its nominee as aforesaid and where in the case of any security payable to bearer which is delivered in pursuance of the said notification, any coupons representing any such dividends or interest are not delivered with the security, such reduction in the price payable therefor shall be made as the Central Government thinks fit :

Provided that where the price specified in the notification in relation to any security is ex-dividend or ex-interest, this sub-clause shall not apply to that dividend or interest or to any coupon representing it.

(3) A certificate signed by any person authorised in this behalf by the Central Government that any specified securities are securities transferred to the Central Government under this section shall be treated by all persons concerned as conclusive evidence that the securities have been so transferred.

Restriction on  
settlement

17. (1) No person resident in British India shall, except with the general or special permission of the Reserve Bank, settle any property, otherwise than by will, upon any trust under which a person who at the time of the settlement is resident outside India, elsewhere than in territories notified in this behalf by the Reserve Bank, will have an interest in the property, or exercise, other than by will, any power for payment in favour of a person who at the time of the exercise of the power is resident outside India elsewhere than in such notified territories.

(2) A settlement or power as aforesaid shall not be invalid except in so far as it confers any right or benefit on any person who at the time of the settlement or the exercise of the power is resident outside India, elsewhere than in territories notified by the Reserve Bank.

Certain provisions  
as to companies

18. (1) Except with the general or special permission of the Reserve Bank, no person resident in British India shall do any act whereby a company, which is controlled by persons resident in India or the United Kingdom ceases to be so controlled.

(2) Except with the general or special permission of the Reserve Bank, no person resident in British India shall lend any money either to any company (other than a banking company) which is controlled whether directly or indirectly, by persons resident outside India elsewhere than in the United Kingdom or territories notified in this behalf by the Reserve Bank, or to any such person.

Power to call for  
information

19. (1) The Central Government may, at any time by notification in the official Gazette, direct owners, subject to such exceptions, if any, as may be specified in the notification, of such foreign exchange or foreign

securities as may be so specified, to make a return thereof to the Reserve Bank within such period, and giving such particulars, as may be so specified.

(2) The Central Government may by order in writing require any person to furnish it or any person specified in the order with any information, book or other document in his possession, being information, book or document which the Central Government considers it necessary or expedient to obtain and examine for the purposes of this Act.

(3) If on a representation in writing made by a person authorised in this behalf by the Central Government or the Reserve Bank, a District Magistrate, Sub-Divisional Magistrate, Presidency Magistrate or Magistrate of the first class has reason to believe that a contravention of any of the provisions of this Act has been, or is being or is about to be committed in any place, he may by warrant authorise any police officer not below the rank of sub-inspector—

(a) to enter and search any place in the manner specified in the warrant ; and

(b) seize any books or other documents found in or on such place which should have been produced in compliance with a requisition issued under sub-section (2) or which the police officer has reason to believe to contain the information required to be furnished under that sub-section.

*Explanation.*—In this sub-section, “ place ” includes a house, building, tent, vehicle, vessel or aircraft.

XI of 1922

(4) The provisions of sub-sections (1), (2) and (3) of section 54 of the Indian Income-tax Act, 1922, shall apply in relation to information obtained under sub-section (2) of this section as they apply to the particulars referred to in that section, and for the purposes of such application—

(a) the said sub-section (3) shall be construed as if in clause (a) thereof there was included reference to a prosecution for an offence under section 23 of this Act, and

(b) persons to whom any information is required to be furnished under an order made under sub-section (2) of this section shall be deemed to be public servants within the meaning of that section.

20. (1) For the purposes of this Act and of any supplemental rules, directions or orders made thereunder—

(a) until the Reserve Bank by general or special order otherwise directs, any person who has at any time after the commencement of this Act been resident in India shall be treated as still being resident in India and if such direction is given in relation to any such person the Reserve Bank

may by the same or a subsequent direction, declare the territory in which he shall be treated as being resident ;

(b) in the case of any person to whom clause (a) does not apply the Reserve Bank may by general or special order declare the territory in which he shall be treated as being resident ;

(c) in the case of any person resident in British India who leaves India, the Reserve Bank may give a direction to any bank that until the direction is revoked, any sum from time to time standing to the credit of that person and any security held on his behalf at any office or branch of that bank in British India specified in the direction, shall not be dealt with except with the permission of the Reserve Bank ;

(d) any transactions with a branch of any business, whether carried on by a body corporate or otherwise, shall be treated in all respects as if the branch were a body corporate resident where the branch is situated ;

(e) the making of any book entry or other statement recording a debit against a branch of any business in favour of the head office or any other branch of that business shall be treated as the acknowledgment of a debt whereby a right is created in favour of a person resident where the head office or other branch is situated.

(2) Nothing in this Act relating to the payment of any price or sum by the Central Government shall be construed as requiring the Central Government to pay that price or sum otherwise than in Indian currency or otherwise than in India.

(3) The Reserve Bank may give directions in regard to the making of payments and the doing of other acts by bankers, authorised dealers, travel agents or stock brokers and other persons who are authorised by the Reserve Bank to do anything in pursuance of this Act in the course of their business, as appear to it to be necessary or expedient for the purpose of securing compliance with the provisions of this Act and any rules, orders or directions made thereunder.

Contracts in  
evasion of  
this Act

21. (1) No person shall enter into any contract or agreement which would directly or indirectly evade or avoid in any way the operation of any provision of this Act or of any rule, direction or order made thereunder.

(2) Any provision of, or having effect under, this Act that a thing shall not be done without the permission of the Central Government or the Reserve Bank, shall not render invalid any agreement by any person to do that thing, if it is a term of the agreement that that thing shall not be done unless permission is granted by the Central Government or the Reserve Bank, as the case may be ; and it shall be an implied term of every contract governed by the law of any part of British India that anything agreed to be done by any term of that contract which is prohibited to be done

by or under any of the provisions of this Act except with the permission of the Central Government or the Reserve Bank, shall not be done unless such permission is granted.

(3) Neither the provisions of this Act nor any term (whether expressed or implied) contained in any contract that anything for which the permission of the Central Government or the Reserve Bank is required by the said provisions shall not be done without that permission, shall prevent legal proceedings being brought in British India to recover any sum which, apart from the said provisions and any such term, would be due, whether as a debt, damages or otherwise, but—

(a) the said provisions shall apply to sums required to be paid by any judgment or order of any Court as they apply in relation to other sums; and

(b) no steps shall be taken for the purpose of enforcing any judgment or order for the payment of any sum to which the said provisions apply except as respects so much thereof as the Central Government or the Reserve Bank, as the case may be, may permit to be paid; and

(c) for the purpose of considering whether or not to grant such permission, the Central Government or the Reserve Bank, as the case may be, may require the person entitled to the benefit of the judgment or order and the debtor under the judgment or order, to produce such documents and to give such information as may be specified in the requirement.

(4) Notwithstanding anything in the Negotiable Instruments Act, 1881, neither the provisions of this Act or of any rule, direction or order made thereunder, nor any condition, whether express or to be implied having regard to those provisions, that any payment shall not be made without permission under this Act, shall be deemed to prevent any instrument being a bill of exchange or promissory note. XXVI of 1881

False statements

22. No person shall, when complying with any order or direction under section 19 or when making any application or declaration to any authority or person for any purpose under this Act, give any information or make any statement which he knows or has reasonable cause to believe to be false, or not true, in any material particular.

Penalty and procedure.

23. (1) Whoever contravenes any of the provisions of this Act or of any rule, direction or order made thereunder shall be punishable with imprisonment for a term which may extend to two years or with fine or with both, and any Court trying any such contravention may, if it thinks fit and in addition to any sentence which it may impose for such contravention, direct that any currency, security, gold or silver, or goods or other property in respect of which the contravention has taken place shall be confiscated.

(2) No Court shall take cognisance of any offence punishable under this section or under section 54 of the Indian Income-tax Act, 1922, as applied by section 19 of this Act, except upon complaint in writing made by a person authorised in this behalf by the Central Government or the Reserve Bank :

Provided that where any such offence is the contravention of any of the provisions of this Act or any rule, direction or order made thereunder which prohibits the doing of an act without permission, no such complaint shall be made unless the person accused of the offence has been given an opportunity of showing that he had such permission.

(3) If the person committing an offence punishable under this section is a company or other body corporate, every director, manager, secretary, or other officer thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent its commission, be deemed to be guilty of such offence.

**Burden of  
proof in  
certain cases**

24. Where any person is prosecuted for contravening any provision of this Act or of any rule, direction or order made thereunder which prohibits him from doing an act without permission, the burden of proving that he had the requisite permission shall be on him.

**Power to  
Central  
Government  
to give  
direction**

25. For the purposes of this Act the Central Government may from time to time give to the Reserve Bank such general or special directions as it thinks fit, and the Reserve Bank shall, in the exercise of its functions under this Act, comply with any such directions.

**Bar of legal  
proceedings**

26. No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Act or any rule, direction or order made thereunder.

**Power to  
make rules**

27. (1) The Central Government may, by notification in the official Gazette, make rules for carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe forms and the circumstances of their use for the purposes of this Act ;

(b) prescribe the procedure to be followed by authorised dealers and by persons applying for permission to do anything for the doing of which permission is necessary under this Act ;

(c) provide for any matter which is to be or may be prescribed under this Act.