

between the industrial concern and any other person and the court may, if satisfied after due inquiry that such contract or agreement had been entered into in bad faith and is detrimental to the interests of the industrial concern, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) that contract or agreement and the contract or agreement shall have effect accordingly.]

**<sup>1</sup>[32D. No right to compensation for termination of contract of managing agent, managing director, etc.—**(1) Notwithstanding anything to the contrary contained in any contract or in any law for the time being in force, no managing agent, managing director or any other director or a manager or any person in charge of management of an industrial concern shall be entitled to any compensation for the loss of office or for the premature termination under this Act of any contract of management entered into by him with such concern.

(2) Nothing contained in sub-section (1) shall affect the right of any such managing agent or managing director, or any other director or manager or any such person in charge of management to recover from the industrial concern, moneys recoverable otherwise than by way of such compensation.]

**<sup>1</sup>[32E. Application of Act 1 of 1956.—**(1) Where the management of an industrial concern, being a company as defined in the Companies Act, 1956 (1 of 1956), is taken over by the Financial Corporation, then, notwithstanding anything contained in the said Act or in the memorandum or articles of association of such concern,—

- (a) it shall not be lawful for the shareholders of such concern or any other person to nominate or appoint any person to be a director of the concern;
- (b) no resolution passed at any meeting of the shareholders of such concern shall be given effect to unless approved by the Financial Corporation;
- (c) no proceeding for the winding up of such concern or for the appointment of receiver in respect thereof shall lie in any court, except with the consent of the Financial Corporation.

(2) Subject to the provisions contained in sub-section (1) and to the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government in consultation with the State Government, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956 (1 of 1956) shall continue to apply to such concern in the same manner as it applied thereto before the issue of the notified order under section 32A.]

**<sup>1</sup>[32F. Restriction on filing of suits for dissolution, etc., of an industrial concern not being a company when its management is taken over.—**(1) Where the management of an industrial concern not being a company as defined in the Companies Act, 1956 (1 of 1956) is taken over by the Financial Corporation, no suit or proceedings for dissolution or for partition shall, insofar as it relates to that industrial concern, lie in any court or before any tribunal or other authority except with the consent of the Financial Corporation.

(2) No proceeding for the appointment of any official assignee or receiver in relation to any industrial concern the management of which has been taken over by the Financial Corporation shall lie in any court except with consent of the Financial Corporation.]

1. Ins. by Act 56 of 1956, sec. 17 (w.e.f. 1-10-1956).

**<sup>1</sup>[32G. Recovery of amounts due to the Financial Corporation as an arrear of land revenue.—**Where any amount is due to the Financial Corporation in respect of any accommodation granted by it to any industrial concern, the Financial Corporation or any person authorised by it in writing in this behalf, may, without prejudice to any other mode of recovery, make an application to the State Government for the recovery of the amount due to it, and if the State Government or such authority, as that Government may specify in this behalf, is satisfied, after following such procedure as may be prescribed, that any amount is so due, it may issue a certificate for that amount to the Collector, and the Collector shall proceed to recover that amount in the same manner as an arrear of land revenue.]

#### CHAPTER IV

#### INVESTMENT OF FUNDS, ACCOUNTS AND AUDIT

**33. Funds of the Financial Corporation.—**(1) Every Financial Corporation shall have its own fund, and all receipts of the Financial Corporation shall be carried thereto and all payments by the Corporation shall be made therefrom.

(2) All moneys belonging to the fund shall be deposited in the Reserve Bank <sup>2</sup>[or the State Bank of India or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959)] <sup>3</sup>[or in any of the banks specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970)] <sup>4</sup>[or any of the banks specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980)] <sup>5</sup>[or, in consultation with the Reserve Bank, in a scheduled bank or a State Co-operative Bank].

**<sup>6</sup>[34. Investment of funds.—**The Financial Corporation may invest its funds in accordance with applicable guidelines and prudential norms as may be prescribed and in such securities as the Board may decide from time to time.]

**35. Disposal of profits.—**(1) The Financial Corporation shall establish a reserve fund.

(2) After making provision for bad and doubtful debts, depreciation of assets and all other matters which are usually provided for by banking companies, the Financial Corporation may out of its net annual profits declare a dividend:

<sup>7</sup>[\*\*\*]

1. Ins. by Act 43 of 1985, sec. 21 (w.e.f. 21-8-1985).

2. Subs. by Act 6 of 1962, sec. 17, for "or with any agency of the Reserve Bank other than a Government treasury" (w.e.f. 16-4-1962).

3. Ins. by Act 77 of 1972, sec. 22 (w.e.f. 30-12-1972).

4. Ins. by Act 43 of 1985, sec. 22 (w.e.f. 21-8-1985).

5. Subs. by Act 56 of 1956, sec. 18, for "or in a scheduled bank in consultation with the Reserve Bank" (w.e.f. 1-10-1956).

6. Subs. by Act 39 of 2000, sec. 21, for section 34 (w.e.f. 5-9-2000).

7. The proviso omitted by Act 39 of 2000, sec. 22 (w.e.f. 5-9-2000).