



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

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असाधारण क्रमांक ५३

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Protection of Interest of Depositors (in Financial Establishment) (Amendment) Bill, 2018 (L. A. Bill No. XXXI of 2018), introduced in the Maharashtra Legislative Assembly on the 27th March 2018, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

RAJENDRA G. BHAGWAT,
I/c. Secretary (Legislation) to Government,
Law and Judiciary Department.

L. A. BILL No. XXXI OF 2018.

A BILL

*to amend the Maharashtra Protection of Interest of Depositors
(in Financial Establishments) Act, 1999.*

WHEREAS it is expedient to amend the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-ninth Year of the Republic of India as follows:-

1. This Act may be called the Maharashtra Protection of Interest of Short title. Depositors (in Financial Establishments) (Amendment) Act, 2018.

Amendment of section 2 of Mah. XVI of 2000. **2.** In section 2 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (hereinafter referred to as “the principal Act”),—

Mah. XVI of 2000.

(1) after clause (e), the following clause shall be added, namely :—

“(f) “secure” includes any communication or intimation given by the Investigation Officer in writing to the Financial Establishment and also to any authority or person who may have the powers to register, record or otherwise to take note of the transaction directing not to dispose of or alienate or encumber or create any third party rights in respect of the property whether immovable or otherwise as also in respect of, lease, transfer, rent, mortgage or create any lien in the property which is in the process of attachment under this Act.”.

Amendment of section 3 of Mah. XVI of 2000. **3.** In section 3 of the principal Act, for the portion beginning with the words “shall on conviction” and ending with the words “one lakhs of rupees” the following shall be substituted, namely :—

“shall on conviction be punished with imprisonment for a term which may extend to ten years and with fine which may extend to twenty-five lakh rupees and such financial establishment also shall be liable for a fine which may extend to one crore rupees.”.

Substitution of section 4 of Mah. XVI of 2000. **4.** For section 4 of the principal Act, the following section shall be substituted, namely :—

Attachment of properties on default of return of deposits.

“**4.** (1) Notwithstanding anything contained in any other law for the time being in force, upon receipt of a complaint from the depositors, the offence under this Act shall be registered. The Investigation Officer shall take prior approval of the District Police Superintendent or Commissioner of Police, as the case may be, for securing the movable or immovable properties of such Financial Establishment and the persons mentioned in sub-section (3).

(2) The District Police Superintendent or Commissioner of Police shall, if he is satisfied that the grounds referred in sub-section (7) are attracted, give approval to the Investigation Officer, to secure the movable and immovable properties of such Financial Establishment and the promoters, directors, partners, manager or members, etc., of such Financial Establishment.

(3) The Investigation Officer shall, after obtaining the prior approval of the District Police Superintendent or Commissioner of Police, as the case may be, in writing, secure the movable or immovable properties,—

(a) of the Financial Establishment or the promoter, director, partner, manager or member of such Financial Establishment,

(b) of any person in whose name properties were purchased without lawful justification from and out of the deposits collected by such Financial Establishment,

(c) of a person who has borrowed or received money from the Financial Establishment to the extent of money he owes to the Financial Establishment.

(4) When the property is secured by the Investigation Officer, no person shall dispose off, lease, transfer, rent, mortgage, create any lien or otherwise, transfer such property except by the order of the Designated Court.

(5) The property secured under sub-section (3) by the Investigation Officer shall be effective for a period of ninety days from the date of securing of that property.

(6) The Investigation Officer shall immediately submit a report to the Government, in respect of the action taken under sub-section (3), for attachment of the said property under sub-section (7).

(7) Notwithstanding anything contained in any other law for the time being in force,—

(a) where upon the receipt of a complaint from the depositors or on receipt of the report from the Investigation Officer under sub-section (6), or otherwise, the Government is satisfied that, any Financial Establishment has failed,—

(i) to return the deposit after maturity or on demand by the depositor ; or

(ii) to pay interest or other assured benefit ; or

(iii) to provide the service promised against such deposit ;
or

(b) where the Government has reason to believe that any Financial Establishment is acting in a calculated manner detrimental to the interest of the depositors with an intention to defraud them, and if the Government is satisfied that, such Financial Establishment is not likely to return the deposits or to make payment of interest or other benefits assured or to provide the services against which the deposit is received,

the Government may, in order to protect the interest of depositors of such Financial Establishment, after recording reasons in writing, by order published it in the *Official Gazette*, attach—

(i) the movable or immovable property believed to have been acquired by such Financial Establishment or the promoter, director, partner, manager, member thereof, either in its own name or in the name of any other person from and out of deposits collected by the Financial Establishment, or

(ii) such other property of the said Financial Establishment or the promoter, director, partner, manager or member of the said Financial Establishment, if it transpires that such money or other property is not available for attachment or not sufficient for repayment of the deposits, or

(iii) such other properties of any person, in whose name the properties were purchased without lawful justification from and out of the deposits collected by the Financial Establishment or a person who has borrowed or received money from the Financial Establishment to the extent of money he owes to the Financial Establishment.

(8) On the publication of the order under sub-section (7), all the properties and assets of the Financial Establishment and the persons mentioned therein shall forthwith vest in the Competent Authority appointed by the Government, pending further orders from the Designated Court.”.

- Amendment of section 5 of Mah. XVI of 2000. **5.** In section 5 of the principal Act, in sub-section (1), for the words, brackets and figures “sub-section (1)” the words, brackets and figures “sub-section (7)” shall be substituted.
- Amendment of section 7 of Mah. XVI of 2000. **6.** In section 7 of the principal Act, in sub-section (6),—
 (1) for the words "order either" the following shall be substituted, namely :—
 “order within a period of one hundred and eighty days from the date of receipt of an affidavit by the Competent Authority under sub-section (3) of section 5 ” ;
 (2) for the words, brackets and figures “sub-section (1)” the words, brackets and figures “sub-section (7)” shall be substituted.
- Amendment of section 8 of Mah. XVI of 2000. **7.** In section 8 of the principal Act,—
 (1) in sub-section (1), after the words “for consideration” the words “or otherwise” shall be inserted ;
 (2) in sub-section (2), after the words "for consideration" the words “or otherwise” shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

The Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (Mah. XVI of 2000) is enacted to protect the interest of the depositors of Financial Establishments. The Act provides for attachment of properties of Financial Establishments on default of return of deposits, penalty for the offence, appointment of Competent Authority constitution of Designated Court, powers of Designated Court regarding attachment of property of malafide transferees, the administration of property attached, etc. However, the provisions of the said Act are not adequate to protect the interest of depositors. The Government, therefore, considers it expedient to amend the said Act, suitably.

2. Some of the important amendments proposed to be made are explained broadly as follows :—

(a) The quantum of punishment provided in the Act appears not to be adequate, in view of the nature of offences. Therefore, it is proposed to enhance the imprisonment upto ten years and fine which may extend to twenty five lakh rupees and such Financial Establishment is also made liable for fine which may extend to one crore rupees, the amendment is proposed in section 3.

(b) In order to secure the property, the Investigation Officer issues letter to the concerned authorities such as Sub-Registrar, Tahsildar, District Registrars, etc. However, in the absence of explicit provisions in the Act, the actions are challenged in the court of law. Therefore, it is proposed to substitute section 4, empowering the Investigating Officer to secure the movable and immovable properties of the Financial Establishments, for ninety days, after obtaining the approval of the District Police Superintendent or Commissioner of Police, as the case may be.

(c) To expedite the process of the Designated Court, it is proposed to pass the attachment order within one hundred and eighty days from the date of receipt of an affidavit by the Competent Authority, the amendment is proposed in section 7.

(d) It is proposed to attach the property which has been transferred for consideration or otherwise to protect the interest of the depositors, the amendment is proposed in section 8.

3. The Bill is intended to achieve the above objectives.

Mumbai,
Dated the 26th March 2018.

DEVENDRA FADNAVIS,
Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposal for delegation of legislative power, namely :—

Clause 4.—Under this clause, which seeks to substitute section 4, in sub-section (7), the power is taken to the State Government, by order published in the *Official Gazette*, attached the movable or immovable property of the Financial Establishment, promoter, director, partner, manager, member thereof, either in its own name or in the name of any other person from and out of deposits collected by the Financial Establishment.

2. The above-mentioned proposal for delegation of legislative power is of a normal character.