

CHAPTER III

State Warehousing Corporation

18.(1) The State Government may, by notification in the Official Gazette and with the approval of the Central Warehousing Corporation, establish a Warehousing Corporation for the State under such name as may be specified in the notification.

*State
Warehousing
Corporation*

(2) A State Warehousing Corporation established under sub-section (1) shall be a body corporate by the name notified under that sub-section, having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract, and may by the said name sue and be sued.

(3) The head-office of a State Warehousing Corporation shall be at such place within the State as may be notified in the Official Gazette.

(4) Notwithstanding anything contained in sections [1], [2] and [3], it shall not be necessary for the State Government to establish a Corporation under sub-section [1] where under clause [g] of sub-section [2] of section 43, a Corporation is deemed to be established for that State under this Act.

*Share
Capital and
Shareholder*

19. [1] The authorised capital of a State Warehousing Corporation shall be such sum not exceeding two crores of rupees as may be prescribed, divided into shares of the face value of one hundred rupees each, of which such number as may be determined by the corporation in consultation with the State Government shall be issued in the first instance and the remaining shares may be issued, from time to time, as and when the Corporation may deem fit after consultation with the Central Warehousing Corporation and with the sanction of the State Government. " Provided that in respect of any State Warehousing Corporation the Central Government may, after consultation with the State Government concerned, from time to time and by order notified in the Official Gazette, increase the maximum limit of the authorised capital aforesaid to such extent and such manner as the Central Government may determine."

(2) Of the share capital issued in the first instance and of any subsequent issue of such capital, the Central Warehousing Corporation shall, in any case, where the State Government has subscribed for fifty percent of such capital, subscribe for the remaining fifty percent of the capital.

*Management
of a State
Warehousing
Corporation*

20.(1) The general superintendence and management of the affairs of a State Warehousing Corporation shall vest in a board of directors which shall consist of the following, namely :

(a) five directors nominated by the Central Warehousing Corporation, of whom one shall be nominated in consultation with the State Bank and one at least shall be a non-official;

- (b) five directors nominated by the State Government; and
- (c) a managing director, appointed by the State Government in consultation with the directors referred to in clauses [a] and [b] and under intimation to the Central Warehousing Corporation.

(2) The Chairman of the board of directors shall be appointed by the State Government from among the directors of the State Warehousing Corporation under intimation to the Central Warehousing Corporation.

(3) The managing director shall –

- (a) exercise such powers and perform such duties as the board of directors or the State Warehousing Corporation may entrust or delegate to him; and
- (b) receive such salary and allowances as the State Warehousing Corporation may, in consultation with the Central Warehousing Corporation and with the previous approval of the State Government, fix.

(4) The board of directors shall act on business principles having regard to public interest and shall be guided by such instructions on questions of policy as may be given to them by the State Government or the Central Warehousing Corporation.

(5) If any doubt arises as to whether a question is or is not a question of policy, or if the State Government and the Central Warehousing Corporation give conflicting instructions, the matter shall be referred to the Central Government whose decision thereon shall be final.

(6) The directors of a State Warehousing Corporation, other than the managing director, shall be entitled to receive by way of remuneration such as may be prescribed;

Provided that no official director shall be entitled to receive any remuneration other than any allowances admissible to him under the rules regulating his conditions of service.

(7) The term of office, of and the manner of filling casual vacancies among, directors shall be such as may be prescribed.

21. A person shall be disqualified for being chosen as, and for being, a director of a State Warehousing Corporation.

(i) if he is found to be a lunatic or becomes of unsound mind; or

(ii) if he is, or at any time has been, adjudicated insolvent or has suspended payment of his debts or has compounded with his creditors; or

(iii) if he is or has been convicted of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months, unless a period of five years has elapsed from the date of expiry of the sentence; or

(iv) if he has been removed or dismissed from service of Government or a corporation owned and controlled by the Government; or

(v) except in the case of the managing director if he is a salaried official of a State Warehousing Corporation; or

(vi) if he is personally interested in a subsisting contract made with, or in any work being done for, the State Warehousing Corporation except as a shareholder (other than a director) in any public company as defined in the Companies Act, 1956 (1 of 1956) :

Provided that where any such person is a shareholder, he shall disclose to the Warehousing Corporation the nature and extent of the shares held by him in such company.

*Disqualifi-
cation for
office of
director of
the
Corporation.*

22.(1) The State Government may, at any time, under intimation to the Central Warehousing Corporation, remove the managing director from office after giving him a reasonable opportunity of showing cause against the proposed removal.

*Removal of
Directors
from office*

(2) The board of directors may remove from office any director who—

- (a) is or has become subject to any of the disqualification mentioned in section 21; or
- (b) is absent without leave of the board of directors for more than three consecutive meetings of the board without cause sufficient, in the opinion of the board, to exonerate his absence.

23.(1) A State Warehousing Corporation may appoint such officers and other employees as it considers necessary for the efficient performance of its functions.

*Appointment
of officers,
etc., and
their
conditions of
service*

(2) Every person employed by a State Warehousing Corporation under this Act shall be subject to such conditions of service and shall be entitled to such remuneration as may be determined by regulations made by the Corporation under this Act.

24. Subject to the provisions of this Act, a State Warehousing Corporation may

*Functions
of the State
Warehousing
Corporation.*

- (a) acquire and build godowns and warehouses at such places within the State as it may, after consultation with the Central Warehousing Corporation determine;
- (b) run warehouses in the State for the storage of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities;
- (c) arrange facilities for the transport of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities to and from warehouses;

- (d) act as an agent of the Central Warehousing Corporation or of the Government for the purpose of the purchase, sale, storage and distribution of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities;
- (da) enter into, with the previous approval of the State Government, joint ventures with the Central Warehousing Corporation; and
- (e) carry out such other functions as may be prescribed.

*Executive
Committee*

25.(1) There shall be an Executive Committee of a State Warehousing Corporation which shall consist of –

- (a) the Chairman of the board of directors;
- (b) the managing director; and
- (c) three other directors chosen in the prescribed manner, of whom one shall be a director referred to in clause (a) of sub-section (1) of section 20.

(2) The Chairman of the board of directors shall be the Chairman of the Executive Committee.

(3) Subject to any general or special directions as the board of directors may, from time to time, give the Executive Committee shall be competent to deal with any matter within the competence of the State Warehousing Corporation.

CHAPTER IV

FINANCE ACCOUNTS AND AUDIT

*Submission of
programme of
activities and
financial
estimates*

26.(1) Every Warehousing Corporation shall prepare before the commencement of each year a statement of programme of its activities during the forthcoming year as well as a financial estimate in respect thereof.

(2) A statement prepared under sub-section (1) shall not later than three months before the commencement of each year, be submitted for approval.

(a) in the case of the Central Warehousing Corporation, to the Central Government.

(b) in the case of a State Warehousing Corporation to the Central Warehousing Corporation and the State Government.

(3) The Statement and the financial estimate of a Warehousing Corporation referred to in sub-section (1) may, with the approval of the Central Government in the case of the Central Warehousing Corporation, or with the approval of the Central Warehousing Corporation and the State Government in the case of State Warehousing Corporation, be revised by the Warehousing Corporation.

27. (1) A Warehousing Corporation may, in consultation with the Reserve Bank and with the previous approval of the appropriate Government, issue and sell bonds and debentures carrying interest for the purpose of raising funds.

*Borrowing
powers of
Warehousing
Corporation*

Provided that the total amount of bonds and debenture issued and outstanding and of the other borrowings of the Corporation shall not at any time exceed ten times the amount of the paid-up share capital and the reserve fund of the Corporation.

(2) A Warehousing Corporation may, for the purpose of carrying out its functions under this Act, borrow money—

- (i) from the Reserve Bank, or
- (ii) from the State Bank, for such periods for which, and upon any of the securities against which it is authorised to advance and lend moneys, under the provisions of the State Bank of India Act, 1955 or [23 of 1955];
- (iii) from any nationalised bank, or
- (iv) from such insurance company, investment trust or other financial institution as may be approved by the Central Government in this behalf.

(3) Subject to the provision to sub-section (1), the Central Warehousing Corporation may borrow money from the Central Government and a State Warehousing Corporation may borrow money from the State Government and the Central Warehousing Corporation on such securities and on such terms and conditions as may be agreed upon between the borrowing corporation and the lender, in each case.

(4) The bonds and debentures of a Warehousing Corporation may be guaranteed by the appropriate Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the appropriate Government on the recommendation of the board of directors of the Corporation at the time the bonds or debentures are issued.

*Deposit
account.*

28. All moneys belonging to a Warehousing Corporation shall be deposited in the Reserve Bank or the State Bank or any nationalised bank subject to any rules made under this Act, in any other scheduled bank or co-operative bank.

*Investment of
funds.*

29. A Warehousing Corporation may invest its funds in the securities of the Central or any State Government or in such other manner as may be prescribed by the appropriate Government.

*Disposal of
profits*

30. (1) Every Warehousing Corporation shall establish a reserve fund out of its annual net profits.

(2) After making provision for bad and doubtful debts, depreciation on assets and all other matters which are usually provided for by companies registered and incorporated under the Companies Act, 1956 (1 of 1956); a Warehousing Corporation may, out of its net annual profits, declare a dividend;

Provided that for so long as the reserve fund is less than the paid-up share capital of the Central Warehousing Corporation and until there has been repaid to the Central

Government such sum, if any, as that Government may have paid under a guarantee given in pursuance of sub-section (1) of section 5 or sub-section (4) of section 27, the rate of such dividend; in the case of the Central Warehousing Corporation, shall not exceed the rate guaranteed by the Central Government under sub-section (1) of section 5.

31.(1) Every Warehousing Corporation shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance sheet in such form as may be prescribed :

*Accounts
and audit of
Warehousing
Corporation*

Provided that, in the case of the Central Warehousing Corporation, the accounts relating to the Warehousing Fund and the General Fund shall be maintained separately.

(2) The accounts of a Warehousing Corporation shall be audited by an auditor duly qualified to act as an auditor of companies under section 226 of the Companies Act, 1956 (1 of 1956).

(3) The said auditor shall be appointed by the appropriate Government on the advice of the Comptroller and Auditor General of India.

(4) The auditor shall be supplied with a copy of the annual balance sheet and the profit and loss account of the Warehousing Corporation and it shall be his duty to examine them, together with the accounts and vouchers relating thereto and he shall have a list delivered to him of all books kept by the Corporation and shall at all reasonable times have access to the books, accounts and other documents of the Corporation and may require from any officer of the Corporation such information and explanations as the auditor may think necessary for the performance of his duties as auditor.

(5) The auditor shall make a report to the shareholders on the accounts examined by him and on

the annual balance sheet and the profit and loss account and in every such report, he shall state whether in his opinion the accounts give a true and fair view—

(a) in the case of the balance sheet, of the state of the Corporation's affairs at the end of its financial year, and

(b) in the case of the profit and loss account of the profit or loss for its financial year.

and in case he has called for any explanation or information from the officers, whether it has been given and whether it is satisfactory.

(6) The appropriate Government may, after consultation with the Comptroller and Auditor General of India at any time issue directions to the auditor requiring him to report to the appropriate Government upon the adequacy of measures taken by a Warehousing Corporation for the protection of its shareholders and creditors or upon the sufficiency of his procedure in auditing the accounts of the Corporation and may enlarge or extend the scope of the audit or direct that a different procedure in audit may be adopted or direct that any other examination may be made by the auditor if in the opinion of the appropriate Government public interest so requires.

(7) A Warehousing Corporation shall send a copy of every report of the auditor to the Comptroller and Auditor General of India and to the Central Government at least one month before it is placed before the share holders.

(8) Notwithstanding anything herein before contained in this section, the Comptroller and Auditor General of India may, either of his own motion or on a request received in this behalf from the appropriate Government, undertake in respect of a Warehousing Corporation such audit and at such time as he may consider necessary :

Provided that where the Central Government is required to make any payment on account of the guarantee

given by it under sub-section (1) of section 5, such audit shall be undertaken by the Comptroller and Auditor General of India or any person authorised by him in this behalf.

(9) The Comptroller and Auditor General of India and any person authorised by him in connection with the audit of the accounts of a Warehousing Corporation shall have the same rights privileges and authority in connection with such audit as the Comptroller and Auditor General has in connection with the audit of Government accounts and in particulars shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Corporation.

(10) The annual accounts of a Warehousing Corporation together with the audit report thereon shall be placed before the annual general meeting of the Corporation within six months of the close of the financial year.

(11) Every audit report under this section shall be forwarded to the appropriate Government within a month of its being placed before the annual general meeting and that Government shall as soon thereafter as may be cause the same to be laid before both Houses of Parliament or the Legislature of the State, as the case may be.

31. A. A Warehousing Corporation shall furnish to the appropriate Government such returns, statistics, accounts and other information with respect to its property or activities as that Government may, from time to time, require.

CHAPTER V

MISCELLANEOUS

32. No act or proceeding of a Warehousing Corporation shall be invalid by reason only of the existence of any vacancy among its directors or any defect in the constitution thereof.

*Vacancies,
etc. not to
invalidate acts
and proceed-
ings of
Warehousing
Corporations*

Delegation.

33. A Warehousing Corporation may, by general or special order in writing, delegate to the Secretary or other officer of the Corporation, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary for the efficient performance of its functions.

Voting rights of share holders.

34. In any meeting of the shareholders of a Warehousing Corporation every member shall have one vote in respect of each share held by him in the Corporation.

Disputes between Central Warehousing Corporation and State Warehousing Corporation.

35. If there is any difference of opinion between the Central Warehousing Corporation and a State Warehousing Corporation regarding their respective functions and powers under this Act, such difference shall be referred to the Central Government whose decision thereon shall be final.

Declaration of fidelity and secrecy.

36. Every director, auditor, officer or other employee of a Warehousing Corporation shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Schedule.

Indemnity of directors.

37. (1) Every director of a Warehousing Corporation shall be indemnified by the Corporation concerned against all losses and expenses incurred in the discharge of his duties except such as are caused by his own wilful act or default.

(2) A director of a Warehousing Corporation shall not be responsible for any other director or for any officer or other employee of the Corporation or for any loss or expense resulting to the Corporation by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Corporation in good faith, or by the wrongful act of any person under obligation to the Corporation or by anything done in good faith in the execution of the duties of his office or in relation thereto.

Offences

38. (1) Whoever, without the consent in writing of a Warehousing Corporation, uses the name of that Corporation in any prospectus or advertisement, shall be

punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) No court shall take cognizance of any offence under sub-section (1) otherwise than on a complaint in writing by an officer authorised in this behalf by the Warehousing Corporation concerned.

39. For the purposes of the Income-tax Act, 1961, (43 of 1961) a Warehousing Corporation shall be deemed to be a company within the meaning of that Act and shall be liable to income-tax and super-tax accordingly on its income, profits and gains :

Provisions relating to income tax and super tax.

Provided that, in the case of the Central Warehousing Corporation, any sum paid by the Central Government under the guarantee given in pursuance of sub-section (1) of section 5 or, in the case of Warehousing Corporation, any sum paid by the Central or a State Government under any guarantee given in pursuance of sub-section (4) of section 27 shall not be treated as income, profits and gains of a Warehousing Corporation, and any interest on the debentures or bonds issued by that Corporation out of such sums shall not be treated as expenditure incurred by it :

Provided further that in the case of any shareholder or debenture-holder, such portion of a dividend or interest as has been paid out of any such sum advanced by the Central Government shall be deemed to be his income from interest on securities declared to be income-tax-free within the meaning of section 86 of that Act.

40. No provision of law relating to the winding up of companies or corporations shall apply to a Warehousing Corporation and any such Corporation shall not be placed in liquidation save by order of the appropriate Government and in such manner as it may direct.

Winding up of Warehousing Corporations

41. (1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules

(2) Without prejudice to the generality of the foregoing power, such rules may provide for –

- (a) the additional functions which a Warehousing Corporation may perform;
- (b) the manner of nomination and election of the directors of the Central Warehousing Corporation and the period within which such directors shall be nominated or elected;
- (c) the term of office of and the manner of filling casual vacancies among, and the remuneration payable to the directors of a Warehousing Corporation;
- (d) the manner of choosing directors on the Executive Committee of a Warehousing Corporation;
- (e) the authorised capital of a State Warehousing Corporation within the maximum limit specified by or under sub-section (1) of section 19;
- (f) the form of the annual statement of accounts and the balance sheet to be prepared by a Warehousing Corporation;
- (g) the deposit of moneys of a Warehousing Corporation in a scheduled bank or a co-operative bank;
- (h) the manner of issuing shares of a Warehousing Corporation, the calls to be made in respect thereof, and all other matters incidental to the issue of shares;
- (i) the form and manner in which returns, statistics, accounts and other information are to be furnished, under section 31A, by a Warehousing Corporation;
- (j) any other matter which has to be or may be prescribed.

(3) Every rule made by the Central Government 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 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 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.

42. (1) A Warehousing Corporation may, with the previous sanction of the appropriate Government, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.

*Power of
Warehousing
Corporation
make
regulation*

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for –

- (a) the conditions of service of, and the remuneration payable to the officers and other employees of a Warehousing Corporation;
- (b) the manner in which, and the conditions subject to which shares of the Central Warehousing Corporation may be transferred;
- (c) the manner in which meetings of a Warehousing Corporation and the Executive Committee thereof shall be convened, the fees for attending such meetings and the procedure to be followed thereat;

- (d) the duties and conduct of officers and employees of a Warehousing Corporation;
- (e) the powers and duties which may be entrusted or delegated to the managing director of a Warehousing Corporation;
- (f) generally, the efficient conduct of the affairs of a Warehousing Corporation.

(3) The appropriate Government may, by notification in the official Gazette, rescind any regulation which it has sanctioned and thereupon the regulation shall cease to have effect.

*Repeal and
Savings.*

43. (1) With effect from the date on which the Central Warehousing Corporation is established under section 3; the Agricultural Act, 1956 (28 of 1956) in so far as it has not been replaced by the National Co-operative Development Corporation Act, 1962 (26 of 1962) shall stand repealed.

(2) Not with standing such repeal, —

- (a) the shares allotted and the share certificates issued by the Central Warehousing Corporation established under the repealed Act (hereinafter referred to as the said Corporation) shall be deemed to have been allotted and issued by the Corporation established under section 3 of this Act as if this Act had been in force on the day on which the shares were allotted and the share certificates were issued.
- (b) every shareholder of the said Corporation shall become the holder of as many shares in the Corporation established under section 3 of this Act as are equivalent in number and value to the shares held by him in the said Corporation;
- (c) all moneys and other securities belonging to the National Warehousing Development Fund which, immediately before the said date, was maintained

by the said Corporation shall stand transferred to and be maintained by the Corporation established under section 3 of this Act;

- (d) anything done or any action taken (including any appointment, nomination, delegation, rule or regulation made) under the repealed Act shall in so far as it is not inconsistent with the provisions of this Act be deemed to have been done or taken under this Act;
- (e) every share held by the said Corporation in a State Warehousing Corporation under the repealed Act shall be deemed to be a share held by the Corporation established under section 3 of this Act in the corresponding State Warehousing Corporation deemed to be established under this Act;
- (f) all rights, liabilities and obligations of the said Corporation, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the Corporation established under section 3 of this Act;
- (g) a State Warehousing Corporation established for a State under the repealed Act shall be deemed to be the State Warehousing Corporation established for that State under this Act.

THE SCHEDULE

(See section 36)

Declaration of Fidelity and Secrecy

I, declare that I will faithfully, truly and to the best of my judgement, skill and ability execute and perform the duties which are required of me as a director, officer, employee or auditor (as the case may be) of the Warehousing Corporation and which properly relate to the office or position in the said Corporation held by me.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the said Corporation nor will I allow any such person to inspect or have access to any books or documents belonging to, or in the possession of, the Corporation and relating to the business of the Corporation.

Signature

Signature

Signature

Signed before me

Date