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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

**GOVERNMENT OF WEST BENGAL**

**LAW DEPARTMENT**

**Legislative**

**NOTIFICATION**

No. 749-L.—10th June, 2015.—The Governor having been pleased to order, under rule 66 of the

Rules of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information:—

**Bill No. 24 of 2015**

**THE WEST BENGAL PROTECTION OF INTEREST OF  
DEPOSITORS IN FINANCIAL ESTABLISHMENTS  
(AMENDMENT) BILL, 2015.**

**A  
BILL**

*to amend the West Bengal Protection of Interest of Depositors in Financial Establishments Act, 2013.*

WHEREAS it is expedient to amend the West Bengal Protection of Interest of Depositors in Financial Establishments Act, 2013, for the purposes and in the manner hereinafter appearing;

West Ben. Act  
XXIX of 2013.

It is hereby enacted in the Sixty-sixth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

*The West Bengal Protection of Interest of Depositors in  
Financial Establishments (Amendment) Bill, 2015.*

(Clauses 1-7.)

Short title and commencement.

1. (1) This Act may be called the West Bengal Protection of Interest of Depositors in Financial Establishments (Amendment) Act, 2015.

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

Amendment of section 3 of West Ben. Act XXIX of 2013.

2. In sub-section (4) of section 3 of the West Bengal Protection of Interest of Depositors in Financial Establishments Act, 2013 (hereinafter referred to as the principal Act), for the words “with the previous sanction of the Competent Authority”, the words “with the previous sanction of the Competent Authority within six months from the completion of the investigation” shall be substituted.

Amendment of section 9.

3. In sub-section (2) of section 9 of the principal Act, after clause (a), the following clause shall be inserted:—

“(aa) to grant or withhold previous sanction for prosecution of an offence under section 3;”.

Amendment of section 10.

4. In sub-section (2) of section 10 of the principal Act, for the words “the financial establishment,”, the words “the financial establishment, and to the general public for information by way of publishing it in two daily newspapers having wide circulation, one in English language and another in vernacular language,” shall be substituted.

Amendment of section 14.

5. In section 14 of the principal Act,—

(1) in sub-section (1), for the words “sold in public auction”, the words “sold in public auction and such notice shall also be published in two daily newspapers having wide circulation, one in English language and another in vernacular language” shall be substituted;

(2) in sub-section (9),—

(a) for the words “any money or the property attached”, the words “any money or the property or assets attached” shall be substituted;

(b) for the words “or direction on such application”, the words “or direction on such application, so as to give effect to the provisions of such enactment” shall be substituted.

Insertion of new section after section 21.

6. After section 21 of the principal Act, the following section shall be inserted:—

“Section 438 of the Code of Criminal Procedure, 1973, not to apply to persons committing an offence under the Act.

21A. Nothing contained in section 438 of the Code of Criminal Procedure, 1973, shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under the Act.”.

2 of 1974.

Amendment of section 22.

7. In section 22 of the principal Act,—

(1) in sub-section (1), for the words “notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law”, the words “in addition to, and not in derogation of any other law for the time being in force” shall be substituted;

(2) in sub-section (2), for the words “notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law”, the words “in addition to, and not in derogation of any other law for the time being in force” shall be substituted.

*The West Bengal Protection of Interest of Depositors in  
Financial Establishments (Amendment) Bill, 2015.*

**STATEMENT OF OBJECTS AND REASONS.**

There has been mushrooming growth of financial establishments in the State of West Bengal for a long time. It has been observed that many such financial establishments have been gaining wrongfully by way of receiving money as deposits from the public, particularly of the middle class and the poorer section of the society, by making impracticable or commercially not viable promises or by offering highly attractive rates of interest or rewards, with the intention of not fulfilling the obligation of refunding the deposits on maturity or with the intention of not rendering proper services assured, to the investors at the time of accepting the deposits.

2. To curb this menace to the society and to protect the interest of the public at large, West Bengal Legislative Assembly passed the West Bengal Protection of Interest of Depositors in Financial Establishments Bill, 2013 on the 12th day of December, 2013. The Bill was reserved by the Governor, West Bengal for Presidential assent.

3. The assent of the Hon'ble President of India to the said Bill was received on the 25th day of March, 2015. Immediately after the receipt of the assent and after completion of all legal formalities, the Bill was published in the *Kolkata Gazette, Extraordinary*, as an Act of the West Bengal Legislative Assembly, on the 14th day of May, 2015.

4. While conveying the Presidential Assent, the Ministry of Home Affairs, Government of India, conveyed that the said assent of the Hon'ble President was subject to condition of making amendments in section 22 of the West Bengal Protection of Interest of Depositors in Financial Establishments Act, 2013 (West Ben. Act XXIX of 2013), within six months of its coming into effect.

5. The Government of West Bengal has accordingly agreed to amend section 22 as per its earlier commitment.

6. The Ministry of Home Affairs, Government of India also forwarded to the State Government certain suggestions given by Ministry of Finance, Department of Financial Services and Ministry of Law & Justice, Department of Justice for consideration of and compliance by the State Government. The comments of Ministry of Law & Justice were not for any specific amendment. It only pointed out that the cost effect of the new legislation will have to be borne by the Government of West Bengal.

7. With regard to the suggestions of Department of Financial Services, the State Government has decided to accept all the suggestions except one for amending the principal Act accordingly by incorporating suitable amendments in the principal Act. The suggestion for inclusion of a provision for compounding of offences has however not been considered for amendment on the ground that it will severely dilute the stringent provision of the principal Act.

*The West Bengal Protection of Interest of Depositors in  
Financial Establishments (Amendment) Bill, 2015.*

8. Accordingly, it is considered necessary and expedient to amend the said Act, for its effective implementation, by way of—

- (a) substituting the words “with the previous sanction of the Competent Authority”, with the words “with the previous sanction of the Competent Authority within six months from the completion of the investigation”, for providing specific time period for granting previous sanction for prosecution under sub-section (4) of section 3;
- (b) inserting a new clause in sub-section (2) of section 9, since the provisions relating to the previous sanction of the Competent Authority within specific period of six months from the completion of the investigation have been incorporated in section 3 and since the Competent Authority has an absolute discretion to grant or to withhold sanction after satisfying itself whether the material placed before it discloses a *prima facie* case against the financial establishment sought to be prosecuted and granting of sanction depends on the material placed before the Competent Authority;
- (c) substituting words “the financial establishment,”, with the words “the financial establishment, and to the general public for information by way of publishing it in two daily newspapers having wide circulation, one in English language and another in vernacular language,”, for providing public notice as one of the additional modes for giving notice in section 10(2) and section 14(1);
- (d) substituting the words “any money or the property attached”, with the words “any money or the property or assets attached” in section 14;
- (e) inserting a new section after section 21 for making provisions of anticipatory bail not to be granted to a person on an accusation of having committed an offence under the Act;
- (f) substituting the words “notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law”, with the words “in addition to, and not in derogation of any other law for the time being in force” in section 22.

9. The Bill has been framed with the above objects in view.

10. There is no financial implication involved in giving effect to the provisions of the Bill.

KOLKATA,  
*The 10th June, 2015.*

DR. AMIT MITRA,  
*Member-in-Charge.*

By order of the Governor,  
  
MADHUMATI MITRA,  
*Secy. to the Govt. of West Bengal,  
Law Department.*