

Securities Contracts (Regulation) Act, 1956

JK SHAH CLASSES

**Securities
Contracts
(Regulation)
Act 1956**



Corporatization

“Corporatisation” means the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860 (21 of 1860), by another stock exchange, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities carried on by such individuals or society.

Demutualisation

“Demutualisation” means the segregation of ownership and management from the trading rights of the members of a recognised stock exchange in accordance with a scheme approved by the Securities and Exchange Board of India.

Spot delivery contract

Spot delivery contract means a contract which provides for

(a) actual delivery of securities and the payment of a price therefore either on the same day as the date of the contract or on the next day, the actual period taken for the dispatch of the securities or the remittance of money therefore through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;

(b) transfer of the securities by the depository from the account of a beneficial owner to the account of another beneficial owner when such securities are dealt with by a depository.

Stock Exchange

Stock Exchange means -

(a) any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under Sections 4A and 4B, or

(b) a body corporate incorporated under the Companies Act, 2013 whether under a scheme of corporatisation and demutualisation or otherwise, for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.

Government security

Government security means a security created and issued whether before or after the commencement of this Act, by the Central Government or a State Government for the purpose of raising a public loan and having one of the forms specified in clause (2) of section 2 of the Public Debt Act, 1944

Derivative

A derivative includes –

- (a) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security and;
- (b) a contract which derives its value from the prices or index of prices, of underlying securities.
- (c) Commodity derivatives; and
- (d) such other instruments as may be declared by the Central Government to be derivatives

RECOGNITION OF STOCK EXCHANGES

Desirous of being recognized for the purposes of this Act may make an application in the prescribed manner to the Central Government.

Every application shall contain such particulars as may be prescribed, and shall be accompanied by a **copy of the bye-laws** of the stock exchange for the regulation and control of contracts and also a **copy of the rules** relating in general to the constitution of the stock exchange

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- the governing body of such stock exchange, its constitution and powers of management and the manner in which its business is to be transacted
 - the powers and duties of the office bearers of the stock exchange;
 - the admission into the stock exchange of various classes of members, the qualifications, for membership, and the exclusion, suspension, expulsion and re-admission of members therefrom or thereinto
 - the procedure for the registration of partnerships as members of the stock exchange in cases where the rules provide for such membership; and the nomination and appointment of authorized representatives and clerks.
 - That the rules and bye-laws of a stock exchange applying for registration are in conformity with such conditions as may be prescribed

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- that the stock exchange is willing to comply with any other conditions (including conditions as to the number of members) which the Central Government, after consultation with the governing body of the stock exchange and having regard to the area served by the stock exchange and its standing and the nature of the securities dealt with
 - that it would be in the interest of the trade and also in the public interest to grant recognition to the stock exchange



WITHDRAWAL OF RECOGNITION

If the Central Government is of opinion that the recognition granted to a stock exchange should in the interest of the trade or in the public interest, be withdrawn.

The Central Government may serve on the governing body of the stock exchange a written notice that the Central Government is considering the withdrawal of the recognition for the reasons stated in the notice and after giving an opportunity to the governing body to be heard in the matter,

The Central Government may withdraw, by notification in the Official Gazette,

POWERS OF CENTRAL GOVERNMENT P2S2 DIR

To call for **periodical** returns and make direct enquiries

To **prohibit** contracts in certain cases

To **Supersede** Companies of Stock Exchanges

To **Suspend** Business of Recognised Stock Exchange

To Issue **Directions**

To grant **Immunity**

To direct **rules** or make rules

To call for periodical returns and make direct enquiries

Every such stock exchange and every member thereof shall maintain and preserve for not exceeding five years such books of accounts, and other documents as the Central Government

Every stock exchange shall furnish to the Central Government and to SEBI a copy of its annual report which shall contain such particulars as may be prescribed by Central Government/SEBI.

To Prohibit Contracts in Certain Cases

If the Central Government is of opinion that it is necessary to prevent undesirable speculation in specified securities in any State or area, it may, by notification in the Official Gazette, declare that no person in the State or area specified in the notification shall, save with the permission of the Central Government, enter into any contract for the sale or purchase of any security specified in the notification except to the extent and in the manner, if any, specified therein.

To Suspend Business of Recognised Stock Exchange

If in the opinion of the Central Government, an emergency has arisen, for the purpose of meeting the emergency, the Central Government considers it expedient so to do, it may, by notification in the Official Gazette

direct a recognized stock exchange to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification, and if, in the opinion of the Central Government, the interest of the trade or the public interest requires that the period should be extended, may, by like notification extend the said period from time to time

To Supersede Companies of Stock Exchanges or Suspend Business

where the Central Government is of opinion that the governing body of any recognised stock exchange should be superseded, then, the Central Government may serve on the governing body a written notice that the Central Government is considering the supersession of the governing body for the reasons specified in the notice and after giving an opportunity to the governing body to be heard in the matter, it may, by notification in the Official Gazette

On the publication of a notification in the Official Gazette, the following consequences shall ensure, namely –

(a) the members of the governing body which has been superseded shall, as from the date of the notification of super session, cease to hold office as such members;

(b) the person or persons appointed may exercise and perform all the powers and duties of the governing body which has been superseded;

(c) all such property of the recognised stock exchange as the person or persons appointed may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry on the business of the stock exchange, shall vest in such person or persons.

To Issue Directions

After making or causing to be made an inquiry, SEBI is satisfied that it is necessary –

(a) in the interest of investors, or orderly development of securities market; or

(b) to prevent the affairs of any recognised stock exchange, or, clearing corporation, or such other agency or person, providing trading or clearing or settlement facility in respect of securities, being conducted in a manner detrimental to the interests of investors or securities market; or

(c) to secure the proper management of any such stock exchange or clearing corporation or agency or person, referred to in clause (b), it may issue such directions –

(i) to any stock exchange or clearing corporation or agency or person referred to in clause (b) or any person or class of persons associated with the securities market; or

(ii) to any company whose securities are listed or proposed to be listed in a recognised stock exchange, as may be appropriate in the interests of investors in securities and the securities market

To Grant Immunity

The Central Government may, on recommendation by SEBI, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation.

No such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity.

An immunity granted to a person as mentioned above may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition

To Delegate or to Make Rules

The Central Government to make rules for the purpose of carrying into effect the objects of this Act by notification in the Official Gazette.

POWERS OF RECOGNISED STOCK EXCHANGE

1. To make Rules restricting Voting Rights etc.
2. To Make Bye-Laws

POWERS OF SEBI

- To make or amend Bye-Laws of Recognized Stock Exchanges
- To make Regulations
- To Adjudicate



To make or amend Bye-Laws of Recognized Stock Exchanges

SEBI may, either on a request in writing received by it in this behalf from the governing body of a recognised stock exchange or on its own motion, if it is satisfied after consultation with the governing body of the stock exchange that it is necessary or expedient so to do and after recording its reasons for so doing, make bye- laws, for all or any of the matters specified in section 9 or amend any bye-laws made by such stock exchange under that section.

any bye-laws have been made or amended, the bye-laws so made or amended shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situated, and on the publication thereof in the Gazette of India, the bye-laws so made or amended shall have effect as if they had been made or amended by the recognised stock exchange concerned.

To make Regulations

SEBI may, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matter namely :

- The manner, in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held, within twelve months from the date of publication
- The terms determined SEBI for settlement of proceeding
- The eligibility criteria and other requirements
- any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulation.

To Adjudicate

SEBI shall appoint any officer not below the rank of a Division Chief of SEBI to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty

SEBI may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market

PUBLIC ISSUE AND LISTING OF SECURITIES

Every issuer intending to offer the certificates or instruments referred therein to the public shall make an application, before issuing the offer document to the public, to one or more recognized stock exchanges for permission for such certificates or instruments to be listed on the stock exchange or each such stock exchange.

Where the permission applied for listing has not been granted or refused by the recognized stock exchanges or any of them, the issuer shall forthwith repay all moneys,

if any, received from applicants in pursuance of the offer document, and if any such money is not repaid within eight days after the issuer becomes liable to repay it, the issuer and every director or trustee thereof, as the case may be, who is in default shall, on and from the **expiry of the eighth day**, be jointly and severally liable to repay that money with interest at the rate of **fifteen percent** per annum

Penalty for failure to furnish periodical returns, etc	5 lakh – 25 crores
Penalty for contravention where no separate penalty has been provided	1 lakh – 1 crores
Penalty for failure to furnish information, return etc.	1 lakh – 1 crores (for each day)
Penalty for failure by any person to enter into agreement with client	1 lakh – 1 crores (for each day)
Penalty for failure to address investors grievances	1 lakh – 1 crores (for each day)
Penalty for failure to segregate securities or money of clients	1 lakh – 1 crores
Penalty for failure to comply with listing conditions or delisting conditions	5 lakh – 25 crores
Penalty for excess dematerialization or delivery of unlisted securities	5 lakh – 25 crores

FACTORS TO BE TAKEN INTO ACCOUNT BY THE ADJUDICATING OFFICER

- (a) the **amount of disproportionate gain or unfair advantage**, wherever quantifiable, made as a result of the default;
- (b) the **amount of loss** caused to an investor or group of investors as a result of the default;
- (c) the **repetitive nature** of the default.

Recovery of Amounts

If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of SEBI for refund of monies or fails to comply with a direction of disgorgement order issued under Section 12A or fails to pay any fees due to SEBI,

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- (a) attachment and sale of the person's movable property;
 - (b) attachment of the person's bank accounts;
 - (c) attachment and sale of the person's immovable property;
 - (d) arrest of the person and his detention in prison;
 - (e) appointing a receiver for the management of the person's movable and immovable properties,

Establishment of Special Courts

- (a) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.
- (b) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.
- (c) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

II. SECURITIES CONTRACTS (REGULATIONS) RULES, 1957

Requirements of Listing of Securities with recognized Stock Exchanges

Company desirous of getting its securities listed on a recognized stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars:

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