

A1. SCOPE OF BANKING

A1.1 INTRODUCTION

Banking Regulation Act 1949 (BR Act 1949) extends to whole India and the banks in India are guided by rules and regulations of the Act along with Reserve Bank of India Act 1934. The Central Government, on representation of RBI, may as per section 4(1) of the Act by publication in Official Gazette suspend for a period not exceeding 60 days operation of all or any of the provisions of the act generally or in relation to any specified banking company.

The Governor of RBI or Dy Governor in his absence as per section 4 (2) of the act can exercise the powers of Central Government as given in section 4(1), however the period of suspension cannot exceed 30 days. The same shall thereafter get concurrence from Central Government and be published in Official Gazette. The Central Government can extend provisions but not for a period exceeding one year.

Some important Section of the Act applicable to banks are

Section 5 (b) of BR Act: "banking" means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawal by cheque, draft, order or otherwise;

Section 5 (c) "banking company" means any company which transacts the business of banking [in India]

Section 5 (cc) defines branch or branch office of a banking company.

Section 5 (ne) defines substantial interest

- i. In relation to a company holding of beneficial interest by an individual or his spouse or minor child, whether singly or taken together, in shares thereof the amount paid up on which exceeds Rs Five Lakh or ten percent of the capital of the company whichever is less
- ii. In relation to a firm beneficial interest held therein by individual or his spouse or minor child, whether singly or taken together, which represents more than ten percent of the total capital subscribed by all the partners of the said firm.

Section 6 defines other business which a banking company can undertake: All such functions which are related to normal accepting of deposit and lending of money are permissible like, remittance, selling buying of foreign currency, purchasing selling of bonds, providing safe deposit vaults, negotiation of instruments, negotiations of loan portfolio, issuance of guarantee, letter of credit, execution of trusts. As per Section 6 (b) a bank can act as agent of Government or any local authority or any other person or persons. Apart from that it may establish trust society or association for support of its employees. It may also manage, sell or deal with property or any other right or title which may come to it as security for the loan advanced. The government of India has permitted insurance as permissible business under this section 6. In addition the banks are also undertaking the following functions

Project Appraisal, Venture Capital funding, Sale of Financial products like Insurance, Mutual Funds, Trustee services, Acceptance of taxes, Factoring, Demat services etc.

Section 7 makes it mandatory for every company undertaking banking business to include bank, banking, banker, banking company with its name. No company other than one undertaking banking business is permitted to use these words in its name. However, the same is not applicable to subsidiary of the banking company.

Section 8 enlists the prohibited activities for a banking company. A banking company is prohibited from trading activities directly or indirectly. A banking company is not even permitted to barter goods for others. However, it is permitted to sell or barter goods which it possesses as security of its loans and advances.

Section 9 prohibits banking company from acquiring or holding any immovable property howsoever acquired except for its own use. The immovable properties coming to such banking company like through security of loans and advances shall not be held for more than 7 years. This period may be extended up to 12 years with RBI permission.

Section 10 (A) provides that Board of Directors of the banking company shall have not less than fifty percent of its members with special knowledge or practical experience in matters like accountancy, agriculture and rural economy, banking, economics, finance etc.

Constitution of Banks: Banks fall under one of the following three categories:

1. **Body Corporate:** All Public sector banks including SBI Group fall under first category. A Public Sector bank is one in which more than 50% of shareholding is held by Government of India.
2. A company, for the purpose of undertaking banking activities, registered under Companies Act 1956/Companies Act 2013 falls under second (2) category. These banks private or foreign as the case may be are governed by Companies Act for their constitution. But for their business activities these companies are guided and regulated by Banking Regulation Act and RBI Act. A bank if incorporated in India is an Indian Bank and if incorporated anywhere else than India is a foreign bank.
3. **Co-operative:** The short-term co-operative credit structure operates with a three-tier system - Primary Agricultural Credit Societies (PACS) at the village level, Central Cooperative Banks (CCBs) at the district level and State Cooperative Banks (StCBs) at the State level. PACS are outside the purview of the Banking Regulation Act, 1949 and hence not regulated by the Reserve Bank of India. Urban Cooperative Banks (UCBs), cater to the financial needs of customers in urban and semi-urban areas. The Reserve Bank regulates the banking functions of StCBs/DCCBs/UCBs under the provisions of Sections 22 and 23 of the Banking Regulation Act, 1949.

For more details go to <https://excelbanking.co.in/study-material/>