

The draft amendment bill to Warehousing (Development and Regulation) Act 2007 for inviting comments-suggestions of general public and the stakeholders.

The Draft Amendment Bill to Warehousing (Development and Regulation) Act 2007 is hereby placed on the website for seeking input/suggestion from the various stakeholders and general public, as part of pre-legislative consultation process. The suggestions/ comments on the draft amendment Bill may be sent through email before or by **17.01.2025 (Friday)** preferably by email at email id suggestions-WDRA@gov.in or stakeholders desirous of submitting suggestions/comment in physical form may do so by 17.01.2025 at the following address:

To

Director (A&F)
Warehousing Development and Regulatory Authority
4th Floor, NCUI Building,
3, Siri Institutional Area, August Kranti Marg,
Hauz Khas, New Delhi, Delhi 110016.

Based upon the responses received stakeholder consultation shall be held (in offline/online mode) for which a separate schedule shall be advised.

**THE WAREHOUSING (DEVELOPMENT AND REGULATION) (AMENDMENT) BILL,
2023**

A

Bill

further to amend the Warehousing (Development and Regulation) Act, 2007.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:

1. Short Title and Commencement

(i) This Act may be called the Warehousing (Development and Regulation) (Amendment) Act, 2023.

(ii) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

(iii) In section 1 of the Warehousing (Development and Regulation) Act, 2007 (hereinafter referred to as the principal Act), in sub-section (2), the words "except the state of Jammu and Kashmir" shall be omitted.

2. In section 2 of the principal Act:

(i) clause (a) shall be omitted;

(ii) in clause (e), after the words "person to whom the", the word "negotiable" shall be inserted;

(iii) for clause (f), the following clause shall be substituted, namely: -

"(f) "endorsement" means signing on the negotiable warehouse receipt, in an electronic mode, that is by electronic signature, by the depositor or holder to the endorsee for the purpose of its negotiation.

Explanation- For the purposes of this clause, the expression "electronic signature" shall have the same meaning as assigned to it in clause (ta) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);"

(iv) after clause (f), the following clause shall be inserted, namely: -

“(fa) “endorser” means the person who negotiates a negotiable warehouse receipt.”

(v) in clause (i), after the words “fungible or not”, the following words shall be inserted, namely:

“as may be notified by the Authority from time to time;

Provided that such goods as may be determined by the Authority shall be treated as non-agricultural goods;”

(vi) for clause (j), the following shall be substituted, namely:-

“(j) “grade” means the quality standard of any goods as notified as grade designation by the Central Government under the Agricultural Produce (Grading and Marking) Act, 1937(1 of 1937) or any other law for the time being in force or by any other agency as determined by the Authority;”

(vii) for clause (k) the following clause shall be substituted, namely:-

“(k) “holder” means,-

(i) in relation to a negotiable warehouse receipt, a person duly recorded in the repository as holder of receipt and having the right over the goods; and

(ii) in relation to a non-negotiable warehouse receipt, a person duly recorded in the repository, as the person to whom the goods are to be delivered;”

(viii) after clause (k), the following clause shall be inserted, namely:-

“(ka) “intermediary” means a person as referred to in section 5;”

(ix) in clause (m), for the words “warehouse receipt under which the goods represented therein are deliverable to the depositor or order”, the words “warehouse receipt issued by a warehouseman through a repository under which the goods represented therein are deliverable to the holder” shall be substituted;

(x) after clause (n), the following clause shall be inserted, namely:-

“(na) “non-notified goods” means goods other than the goods notified by the Authority;”

(xi) for clause (p), the following clause shall be substituted, namely:-

“(p) “person” includes-

(i) an individual;

(ii) a Hindu Undivided Family;

(iii) a company;

(iv) a firm;

(v) an association of persons or a body of individuals, whether incorporated or not;

(vi) any government body; or

(vii) every artificial juridical person, not falling within any of the above;”

(xii) after clause (r), the following clause shall be inserted, namely:-

“(ra) “repository” means a person as referred to in section 5A;”

(xiii) for clause (t), the following clause shall be substituted, namely:-

“(t) “warehousing business” means the business of operating and maintaining warehouses for storage of goods and issuing warehouse receipts;”

(xiv) after clause (t), the following clause shall be inserted, namely:-

“(ta) “warehousing market” means and includes any marketplace where warehousing business or transactions relating to warehouse receipts are conducted;”

(xv) for clause (u), the following clause shall be substituted, namely: -

“(u) “warehouse receipt” means a receipt in electronic form issued by a warehouse registered under section 4 and as recorded in the repository, whether negotiable or non-negotiable, as supporting evidence for storage of goods deposited in the warehouse and not owned by the warehouseman;

Provided the term warehouse receipt shall not include the acknowledgement issued under section 11 of the Act;”

(xvi) in clause (v), the words “or an accreditation agency” shall be omitted and for the words “for carrying on the business of warehousing”, the words “for carrying on the warehousing business” shall be substituted.

3. For Section 3, following shall be substituted:

“3. Requirement of registration for warehouses –

(1) No person shall commence or carry on the warehousing business issuing negotiable warehouse receipt unless he has obtained a registration certificate in respect of the concerned warehouse or warehouses granted by the Authority under this Act.

(2) The Central Government may, having regard to the interest of depositors or holders or orderly development of warehousing market and in consultation with the Authority, as it considers necessary or expedient so to do, by notification and for the reasons to be recorded in writing direct registration for all or any class of warehouses commencing or carrying on warehousing business issuing or intending to issue non-negotiable warehouse receipts, with the Authority.

Provided that a person carrying on the warehousing business immediately before such notification shall be allowed to carry on such business, in case he has made an application for registration within 90 days from the date of such notification.

Explanation: For the removal of doubts, it is hereby clarified that negotiable warehouse receipt and non-negotiable warehouse receipt are issued against storage of goods defined under Sec 2(i).

(3) Provided that a warehouse registered under section 4 shall be allowed to store non-notified goods in the form and manner as may be determined by the Authority.”

4. After section 3 of the principal Act, the following section shall be inserted, namely: -

“3A. Certification of certain warehouses.-

(1) Where the Central Government so directs, a person having effective control of a warehouse, which is not otherwise required to be registered under section 3 and which stores goods or intends to store goods, shall apply to the Authority for certification of such warehouse, in such form and manner as may be determined by the Authority under sub-section (2).

(2) The Authority may from time to time determine the terms and conditions and the format according to which such certificate shall be issued by the Authority.”

5. In section 4 of the principal Act,-

(i) for sub-section (1), the following sub-section shall be substituted, namely:-

“(1) Unless exempted by the Authority under section 3, any person desirous of commencing or carrying on the warehousing business shall make an application to the Authority for registration in respect of the warehouses owned or occupied by him.”

(ii) in sub-section (2), after the words “application for registration”, the words “of a warehouse” shall be inserted, and for the word “prescribed”, the words “specified by the Authority” shall be substituted.

(iii) in sub-section (3), for the words “prescribed form”, the words “form specified by the Authority” shall be substituted and for the words “business of maintaining a warehouse or warehouses and to issue negotiable warehouse receipts”, the words “warehousing business” shall be substituted.

(iv) in sub-section (4), for the words “required to warehouse the goods”, the words “required to store the goods” shall be substituted and for the word “prescribed”, the words “specified by the Authority” shall be substituted.

6. For section 5 of the principal Act, the following section shall be substituted, namely;

“5. Intermediaries defined.- Subject to such conditions as may be determined, an intermediary includes a person associated with the warehousing market and conducting such functions or activities, as may be determined by the Authority from time to time, including but not limited to functions pertaining to inspection, assaying, broking, transferring, underwriting or transaction advising.”

7. After section 5 of the principal Act, the following section shall be inserted, namely: -

“5A. Repositories defined:

(1) Subject to such conditions and the manner as may be determined by the Authority, any person or class of persons as determined by the Authority, who has received a certificate of registration under this Act shall be authorized to act as a repository for the purpose of recording the details of transactions of warehouse receipts.

Provided that a repository registered and operating immediately before the commencement of the Warehousing (Development and Regulation) Amendment Act, 2023, shall be allowed to carry on such business, in case it has made an application to the Authority for continuation of the registration within a period of ninety days from the date of such commencement.

Provided further, that the application filed by the existing repository even after the period of ninety days may be entertained by the Authority if such repository has shown sufficient cause for not filing the application within the period.

(2) Notwithstanding anything contained in sub-section(1),the Authority may, by itself or through a subsidiary or special purpose entity, discharge the functions of a repository for the purpose of recording the details of transactions of warehouse receipts.”

8. In section 6 of the principal Act,-

(i) In sub-section (2), for the words “deposit of the goods shall be payable by the warehouseman”, the following words shall be substituted, namely:-

“deposit of the goods, or the market value of the damaged or lost goods as determined by the Authority, whichever is less shall be payable by the warehouseman to the holder.

Provided that the warehouseman shall not be responsible for any loss, destruction, damage or deterioration of the goods delivered to him for storage attributable to circumstances such as act of war, act of God and the like.”

(ii) In sub-section (3), for the words “the compensation shall be equal to value of goods plus the loss of profit to the holder of the receipt”, the words, “compensation for the damaged or lost goods, which shall not be less than the value at the time of deposit or market value of the goods as determined by the Authority, whichever is higher, shall be payable by the warehouseman to the holder.” shall be substituted.

(iii) Sub-section (4) shall be omitted.

9. In section 7 of the principal Act,-

(i) for sub-section (1), the following sub-section shall be substituted, namely:-

“(1) A warehouseman shall deliver the goods referred to in a warehouse receipt, to the holder on demand made by the holder through repository and on the holder fulfilling all the following conditions, namely:-

- (a) satisfying the warehouseman’s lien on the goods; and
- (b) submitting electronic instructions for delivery of goods through the repository;

The holder shall, upon receipt of the goods, provide an acknowledgement to the warehouseman in writing or in electronic form for the receipt of the goods.”

(ii) in sub-section (2), after the words "deliver the goods", the words "by the end of the next business day" shall be inserted and for the words "the refusal or failure", the words "such refusal or failure" shall be substituted.

10. In section 8 of the principal Act,-

(i) the heading shall be substituted by the following, namely:-

‘Duties of warehouseman to keep records and accounts of warehousing business.’

(ii) in sub section (1), for the words "of all un-issued receipts in his possession, of all receipts issued, returned to, or cancelled, by him", the words "and of all the warehouse receipts issued or cancelled or extinguished by him" shall be substituted;

(iii) in sub-section (2) and (3), the words "warehouse business" wherever occurring shall be substituted by the words "warehousing business".

11. In section 9 of the principal Act,-

(i) in the heading, after the words "perishable and hazardous", the words "and fungible" shall be inserted;

(ii) for sub-section (1), the following sub-section shall be substituted, namely:-

“(1) If the goods are of a perishable or hazardous nature, and their keeping shall deteriorate greatly in value or damage other property, the warehouseman may give notice that is reasonable and possible under the circumstances to the holder of the goods, as per the details recorded and provided by the repository, requiring that person to satisfy the lien on the goods and to remove them from the warehouse.”

(iii) in sub-section (3), for the words "registered post or telegraphically addressed to the person to whom it is to be given at the last known address of the person", the words "registered post addressed to the holder at his address as provided by the repository" shall be substituted;

(iv) in sub-section (4), for the words "dispose of them in such other manner as he deems proper", the words "dispose them off in such other manner as he deems proper and in accordance with applicable law" shall be substituted;

(v) in sub-section (5), for the words "holder of the receipt", the words "holder or any other person having pledge over the goods as endorsed on the warehouse receipts" shall be substituted.

(vi) for sub-section (7), the following sub-section shall be substituted, namely:-

“(7) If, at any time, the warehouseman is satisfied that the quality of any fungible goods or any part thereof has so deteriorated or is so deteriorating that it is necessary to do so, to protect the holders from loss and time is not sufficient for him to seek their instructions, he shall provide a notice of such deterioration and the factors requiring such disposal to the holder and subject to the regulations in this regard, dispose off the goods or any part thereof in such manner as he deems proper and in accordance with applicable law and keep the sale proceeds, after satisfying his lien and other dues, in an escrow account for the benefit of the holders or any other person having pledge over the goods as endorsed on the warehouse receipts.”

(vii) in sub-section (8), the words “of the receipt” shall be omitted.

(viii) in sub-section (9), for the word “right”, the word “obligation” shall be substituted.

12. In section 10 of the principal Act,-

(i) in sub-section (1), the words “whether deposited by the owner of the goods or by his authority, or by any person entrusted with the possession of the goods by the owner or by his agent”, shall be omitted;

(ii) in sub-section (3), for the words “In case of any endorsement on the face of a negotiable warehouse receipt, by a bank or the warehouseman”, the words “In case a negotiable warehouse receipt is endorsed in the name of a bank, clearing corporation or financial institution and the like, whose details are recorded in the repository” shall be substituted;

(iii) in sub-section (5), after the words “upon which he has a lien”, the words “and hold the money in trust for the holder after recovering his lien or any other person having pledge over the goods as endorsed on the warehouse receipts” shall be inserted;

(iv) in sub-section (6), the words “in writing” shall be omitted;

(v) for sub-section (10), the following sub-section shall be substituted, namely:-

“If the surplus is not demanded by the person entitled thereto within thirty days after the sale of goods or if there are different claims, the warehouseman shall transfer the said amount to the Warehouse Depositors Protection Fund after intimating the same to the Authority in the manner as may be determined by the Authority.”

13. In section 11 of the principal Act,-

(i) for sub-section (1), the following sub-section shall be substituted, namely:-

“A warehouse receipt shall be a document of title to the goods and shall contain such particulars as may be specified by the Authority;

Provided that a warehouseman, if requested by the depositor, shall generate an acknowledgment showing the details of goods deposited by him and such acknowledgment shall not be used by a depositor in any form in lieu of warehouse receipt.”

(ii) in sub-section (2), for the words “negotiable warehouse receipt any of the particulars set out in sub-section (1)”, the words “warehouse receipt any of the particulars as may be specified by the Authority in accordance with sub-section (1)” shall be substituted;

(iii) in sub-section (3), for the words “set forth in”, the words “as may be specified by the Authority in accordance with” shall be substituted;

(iv) for sub-section (4), the following sub-section shall be substituted, namely:-

“(4) Authority may add, delete or modify any particulars as may be specified in accordance with sub-section (1) for all or any goods or class of goods or for any class of warehouses”.

14. In section 12 of the principal Act,-

(i) for sub-section (2), the following sub-section shall be substituted, namely:-

“(2) A warehouseman who issues a non-negotiable warehouse receipt shall cause it to be accordingly recorded in the repository”;

(ii) in sub-section (3), for the word “valuable”, the word “valid” shall be substituted;

(iii) for sub-section (4), the following sub-section shall be substituted, namely:-

“(4) The validity of a negotiable warehouse receipt shall not exceed the declared shelf-life of the goods for which it is issued”

15. Section 13 of the principal Act shall be substituted by the following section, namely:-

“13. Negotiation of a warehouse receipt.-

A negotiable warehouse receipt may be negotiated by endorsement by the transferor, by recording the fact of such negotiation in repository and the same shall be recorded only after following the directions or regulations issued by the Authority in this regard.”

16. Section 14 of the principal Act shall be omitted;

17. Section 15 of the principal Act shall be substituted by the following section, namely:-

“15. Warranties on negotiation of warehouse receipt.—

An endorser who, for a valid consideration, negotiates a negotiable warehouse receipt and the claim secured by it, and gets it recorded appropriately at the repository, unless a contrary intention appears, warrants the following:—

- (a) that the negotiable warehouse receipt is genuine;
- (b) that he has a legal right to negotiate or transfer the negotiable warehouse receipt and the goods represented by it;
- (c) that he has no knowledge of any fact that would impair the validity of the negotiable warehouse receipt;
- (d) that he has a right to transfer the title to the goods; and
- (e) that the goods are merchantable or fit for a particular purpose when those warranties would have been implied, if the contract of the parties had been to transfer without a negotiable warehouse receipt the goods represented by it.”

18. In section 16 of the principal Act, for the word “receipts”, wherever they occur, the words “negotiable warehouse receipts” shall be substituted.

19. In section 17 of the principal Act,-

- (i) in the heading, after the words “negotiation of”, the word “negotiable” shall be inserted;
- (ii) in the main portion, after the words “negotiation of a”, the words “negotiable warehouse” shall be inserted;
- (iii) in clause (b), for the words “the owner of the receipt was induced by fraud, mistake or duress to entrust the possession or custody of the receipt to that person.”, the words “the holder of the negotiable warehouse receipt, in the records of the repository, was induced by fraud, mistake or duress to authorize the change of records in the repository in favor of that person,” shall be substituted;

20. Section 18 of the principal Act shall be omitted.

21. In section 19 of the principal Act,-

(i) the word “negotiable” shall be omitted;

(ii) for the words “depositor or endorsee,”, the words “holder, in the records of repository” shall be substituted;

(iii) for the word “custodian”, the word “warehouseman” shall be substituted;

(iv) for the words “surrendered for cancellation”, the words “extinguished or revised, as the case may be” shall be substituted.

22. In Section 20 of the principal Act,-

(i) The heading shall be substituted by the following, namely:-

“20. Transfer of goods under non-negotiable warehouse receipts.”

(ii) for sub-section (1), the following sub-section shall be substituted, namely:-

“(1) Any goods represented by a non-negotiable warehouse receipt may be transferred either by operation of law or in such manner as may be specified by the Authority by regulations”;

(iii) for sub-section (2), the following sub-section shall be substituted, namely:-

“(2) A person to whom the goods covered by a non-negotiable warehouse receipt is transferred acquires the title of the goods and the non-negotiable warehouse receipt stands extinguished.”

(iv) in sub-section (3), for the words “terms of the receipt upon deposit of”, the words “terms of the non-negotiable warehouse receipt upon” shall be substituted.

23. For section 21 of the principal Act, the following section shall be substituted, namely:-

“21. Presumption of negotiable warehouse receipt.-

In the hands of a holder who has purchased a negotiable warehouse receipt for valid consideration and who has appropriate recordings in repository, it shall be presumed that

the goods described in it are of the quantity and quality as described in it as against the warehouseman or any person claiming through him.”

24. In section 22 of the principal Act,-

(i) in clause (b), for the word “full”, the word “valid” shall be substituted;

(ii) in clause (c), for the words “full legal title in the goods represented by the receipt”, the words “full right, title and interest in the goods represented by the warehouse receipt” shall be substituted.

25. Section 23 of the principal Act shall be omitted;

26. For section 25 of the principal Act, the following section shall be substituted, namely:-

“25. Composition of Authority:

The Authority shall consist of the following members, namely:

(a) a chairperson;

(b) two whole-time members to be appointed by the Central Government from amongst persons of ability, integrity and standing who have wide knowledge and experience in inventory management, insurance, preservation, quality control, agriculture, banking, finance, economics, law or administration.

(c) three part-time members, out of which-

(i) two shall be nominated by the Central Government from amongst the officers of the Central Government not below the rank of Joint Secretary or equivalent, one each to represent the Department of Food and Public Distribution and Department of Financial Services, Ministry of Finance - members, *ex-officio*;

(ii) one member shall be from Securities and Exchange Board of India or Reserve Bank of India or Insurance Regulatory and Development Authority of India, as directed by the Central Government, not below the rank of Executive Director or other equivalent rank to be nominated by the head of such concerned organisation - member, *ex-officio*”.

27. In section 26 of the principal Act,-

(i) in sub-section (1), after the words "Chairperson and every other member", the words "other than *ex-officio* members," shall be substituted;

(ii) after the proviso, the following proviso shall be inserted:

"Provided further that the term of office of an *ex-officio* member shall continue so long as he holds the office by virtue of which he is a member of the Authority."

28. In sub-section (2) of section 35 of the principal Act,-

(i) after clause (a), the following clause shall be inserted, namely:-

"(aa) to issue certification for warehouses under section 3A;"

(ii) for clause (b) the following clause shall be substituted, namely:-

"(b) to regulate the registration and functioning of intermediaries, including modification, withdrawal, renewal, suspension or cancellation of such registration, charges and determine the code of conduct for officials of intermediaries and to impose penalties on them;"

(iii) in clause (e), for the word "warehouse", the word "warehousing" shall be substituted;

(iv) in clause (i), for the words "accreditation agencies", the word "intermediaries" shall be substituted;

(v) in clause (l), for the words "warehouses and warehouse receipt holders", the words "warehousemen and holders" shall be substituted;

(vi) in clause (m), for the words "and transfer of credit balances of fungible goods deposited in the warehouses", the words "of goods deposited in the warehouses and recorded in repositories," shall be substituted;

(vii) after clause (m), the following clauses shall be inserted, namely: -

"(ma) to perform the functions of a repository ; to regulate the registration, qualification for registration and functioning of repositories including charges, renewal, withdrawal, suspension or cancellation of such registration;

(mb) to cast obligations on repositories and to impose penalties on them;

(mc) to make regulations for the enforcement of the penalties";

(viii) in clause (n), for the words “commodities in a registered warehouse”, the words “goods in a warehouse” shall be substituted;

(ix) for clause (o), the following clause shall be substituted, namely:-

“(o) to specify the duties and responsibilities of the warehouseman and holder, mechanism for redressal of grievances against warehousemen, repositories and intermediaries and pass orders relating to complaints filed against the aforesaid for compliance with the provisions of this Act, rules or regulations made thereunder or any directions passed by the Authority;”

(x) after clause (o), the following clauses shall be inserted, namely:-

“(oa) to specify mechanisms for resolution of disputes between warehouses and holders;

(ob) to notify goods for storage in warehouses;

(oc) to specify mechanism for use of the Warehouse Depositor Protection Fund;

(od) to adjudicate on the compensation to be provided in lieu of the damaged or lost goods;

(oe) The Authority may promote, form or manage or associate itself in promotion, formation or management of companies, subsidiaries, affiliates, societies, trusts or such other association of persons, as it may deem fit, for the purpose of carrying out its functions under this Act.”

(xi) for clause (p), the following clause shall be substituted, namely:-

“(p) to perform such other functions and exercise such powers on matters connected therewith and incidental thereto or as may be prescribed.”

29. After section 35 of the principal Act, the following sections shall be inserted, namely:-

“35A. Power to issue directions

Save as otherwise provided in section 35, if after making or causing to be made an enquiry or otherwise, the Authority is satisfied that it is necessary or expedient-

(a) in the interest of depositors or holders, or orderly development of warehousing market; or

(b) to prevent the affairs of any intermediary, repositories or other persons referred to in section 35 being conducted in a manner detrimental to the interest of depositors or holders or warehousing market; or

(c) to secure the proper management of any such intermediary or person,

it may, by general or special order, issue such directions from time to time:

(i) to any person or class of persons referred to in section 35 or associated with the warehousing market;

(ii) to any person who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or rule or regulations made there under or directions of Authority from time to time, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.

35B. Power to Investigate

(1) Where the Authority has reasonable grounds to believe that any warehouseman, intermediary, repository or person associated with the warehousing market has violated any of the provisions of this Act or the rules or the regulations made thereunder or directions issued by the Authority thereunder, it may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such warehouseman, intermediary, repository or person associated with the warehousing market and to report the same to the Authority.

(2) Without prejudice to the provisions of any other applicable law in force, it shall be the duty of every warehouseman, intermediary, repository or person associated with the warehousing market to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the warehousing business or, as the case may be, of or relating to, the intermediary, repository or such person, which are in their custody or power.

(3) The Investigating Authority may require any warehouseman, intermediary, repository or person associated with the warehousing market in any manner to furnish such information to, or produce such books or registers or other documents or record before it or any person authorised by it in this behalf as it may consider necessary, if the furnishing of such information or the production of such books or registers or other documents or record is relevant or necessary for the purposes of its investigation.

(4) The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter shall return the same to such warehouseman, intermediary, repository or person associated with the warehousing market by whom or on whose behalf the books, registers, other documents and record are produced:

Provided that the Investigating Authority may call for any book, register, other document and record if they are needed again:

Provided further that if the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents and record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents and record to such person or on whose behalf the books, registers, other documents and record were produced.

(5) The Investigating Authority may examine on oath, any warehouseman, intermediary, repository or person associated with the warehousing market or any employee of such warehouseman, intermediary, repository or person, in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.

(6) If any person fails without reasonable cause or refuses –

(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty under sub-section (2) or sub-section (3) to produce;

(b) to furnish any information which is his duty under sub-section (3) to furnish;

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section;

(d) to sign the notes of any examination referred to in sub-section (7),

he shall be liable for penalty, referred to in sub-section (7) of section 43.

(7) The notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

(8) Where in the course of investigation, the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to, any warehouseman, intermediary or person associated with the warehousing market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to the Judicial Magistrate of the First Class or Judge of such designated court as may be notified by the Central Government for an order for the seizure of such books, registers, other documents and record.

(9) After considering the application and hearing the Investigating Authority, if necessary, the Judicial Magistrate of the First Class or Judge of the designated court may, by order, authorise the Investigating Authority to:

(a) enter, with such assistance, as may be required, the place or places where such books, registers, other documents and records are kept;

(b) search that place or those places in the manner specified in the order; and

(c) seize books, registers, other documents and record, it considers necessary for the purposes of the investigation.

(10) The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period, not later than the conclusion of the investigation, as it considers necessary and thereafter shall return the same to the warehouseman, intermediary, repository or person associated with the warehousing market, or as the case may be, from whose custody or power they were seized and inform the Judicial Magistrate of the First Class or Judge of the Designated Court of such return:

Provided that the Investigating Authority may, before returning such books, registers, other documents and record, place identification marks on them or any part thereof.

(11) The Investigating Authority or any person authorised by it may requisition the services of any police officer or any officer of the Central Government, or of both, to assist it, for all or any of the purposes specified in sub-section (8) and it shall be the duty of every such officer to comply with such requisition.

(12) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

(13) Notwithstanding anything contained in any other law for the time being in force while exercising the powers under sub-section (2), sub-section (3), sub-section (4) and

sub-section (10) the Investigating Authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:

(a) the discovery and production of books of account and other documents, at such place and such time as may be determined by the Investigating Authority;

(b) summoning and enforcing the attendance of persons and examining them on oath;

(c) inspection of any books, registers and other documents of any person referred to in section 35, at any place;

(d) inspection of any book, or register, or other document or record of the person referred to in sub-section (2) and (3);

(e) issuing commissions for the examination of witnesses or documents.

(14) The Authority may, by an order, for reasons to be recorded in writing, in the interests of depositors or holders or warehousing market, take any of the following measures, either pending investigation or inquiry or on completion of such investigation or inquiry, namely:-

(a) restrain persons from accessing the warehousing market and prohibit any person to issue, buy, sell, pledge, extinguish or deal in warehouse receipts;

(b) impound and retain the proceeds, goods or warehouse receipts in respect of any transaction which is under investigation;

(c) attach, after passing of an order on an application made for approval by the Judicial Magistrate of the first-class having jurisdiction, for a period not exceeding one month, one or more bank account, movable or immovable properties or accounts of any warehouseman, intermediary, repository or any person associated with the warehousing market in any manner involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder:

Provided that only the bank account or accounts or any transaction entered therein, so far as it relates to the proceeds, goods or warehouse receipts actually involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder shall be allowed to be attached;

(d) direct any warehouseman, intermediary, repository or any person associated with the warehousing market in any manner not to dispose of or alienate the goods and/or the warehouse receipts forming part of any transaction which is under investigation;

(15) If the Authority finds, after causing an inquiry to be made, that any person has violated, or is likely to violate, any provisions of this Act, or any rules or regulations made thereunder, it may pass an order requiring such person to cease and desist from committing or causing such violation.

35C. Power to suspend, cancel and take over control

(1) If the Authority determines that the continued operation or functioning of a warehouse or repository is likely to result in loss to the holder(s), or where the registration of the warehouse or the repository is surrendered or sought to be surrendered, the Authority may, upon providing a written notice to the warehouseman or repository, as the case may be, and the holder(s):

(a) suspend, cancel, or revoke the registration of such warehouse(s) or repository(ies), as the case may be, or

(b) refuse to renew any registration which has expired of such warehouse(s) or repository (ies)

(c) and take control of and manage such warehouse(s)

(2) While acting under sub-section (1), the Authority may,

(a) in case of taking control of the warehouse, immediately inform all holders associated with such warehouses, and provide sufficient time for taking delivery of goods;

(b) appoint an external person for taking control, management and liquidation of the goods; and

(c) recover the costs of any action taken under this section from the warehouseman or repository, as the case may be, and in the event of non-payment, such recovery shall be made in accordance with section 35E.

Provided that nothing in this sub-section restricts the power of the Authority to recover such costs from the security deposit, if any.

(3) No action under this section shall be taken by the Authority without providing an opportunity to be heard to the warehouseman or repository, as the case may be.

35D. Power to take enforcement action

(1) The Authority shall have the power to take enforcement actions against any warehouseman, repository or intermediary or any person associated with the warehousing market for any violation of any provisions of the Act or rules or the regulations, and directions issued by it.

(2) For the purposes of sub-section (1), any of the following shall constitute an "enforcement action":

(a) issuance of a public statement published in a manner the Authority deems fit;

(b) issuance of a direction requiring the warehouseman, repository, intermediary or any person associated with the warehousing market to correct a violation;

(c) imposition of a monetary penalty on the warehouseman, repository, intermediary or any person associated with the warehousing market at such rates or such penalties referred to in sections 43 and sections 43A to 43D, and

(d) suspension, revocation or cancellation of a registration, empanelment or any other approval granted by the Authority to the warehouseman, repository or intermediary, as the case may be.

(3) The Authority shall take enforcement action against a warehouseman, repository, intermediary or any person associated with the warehousing market by passing an order.

(4) The Authority shall issue a notice to the warehouseman, repository, intermediary or any person associated with the warehousing market before passing an order under this section, and provide an opportunity to such person to give oral or written representations or both.

(5) The Authority may by regulations specify the following, namely:-

(a) violations that would attract specific kinds of enforcement actions under this section, and

(b) the process of issuing a notice, an order and the process by which a warehouseman, repository, intermediary or any person associated with the warehousing market shall be provided an opportunity to make representations under this section.

35E. Power to recover monetary penalty and other costs

(1) If a person fails to pay the monetary penalty imposed by Authority or fails to comply with any direction of the Authority for refund of monies or fails to pay any fees or costs or pending amounts due to the Authority, the recovery officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this section referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

(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) appointing a receiver for the management of the person's movable and immovable properties;

and for the purpose of this section, the provisions of sections 220 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules made thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1: For the purposes of this sub-section, it is hereby clarified that –

(i) the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act;

(ii) any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

(iii) any reference to appeal in the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Appellate Authority under section 42 of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a recovery officer under sub-section (1), pursuant to non-compliance with any direction issued by the Authority under section 35A, shall have precedence over any other claim against such person, subject to the provisions of Insolvency and Bankruptcy Code, 2016 (31 of 2016).

(4) For the purposes of sub-sections (1), (2) and (3), the expression "recovery officer" means any officer of the Authority who may be authorised, by an order in writing, to exercise the powers of a recovery officer."

30. In sub-section (1) of section 37 of the principal Act, clause (c) shall be omitted.

31. After section 37 of the principal Act, the following sections shall be inserted, namely: -

"37A. Crediting sums realised by way of penalties to Consolidated Fund of India.

All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India."

"37B. Constitution of Warehouse Depositors Protection Fund.

(1) The Central Government may constitute a fund to be called the Warehouse Depositors Protection Fund and there shall be credited there to-

(a) contribution as may be made by the Authority to the fund;

(b) the grants and donations given to the fund by the Central Government, State Government or any other entity approved by the Central Government for this purpose;

(c) the interest or other income received out of any investment made from the fund;

(d) such other amount as may be prescribed.

(2) The fund shall be utilized to protect the interest of the depositors or stakeholders and for such other purposes as may be prescribed.”

32. In sub-section (1) of section 42 of the principal Act, after the words “an order of the Authority”, the words “or the adjudicating officer” shall be inserted.

33. After section 42 of the principal Act, the following section shall be inserted, namely:

“42A. Civil Court not to have jurisdiction.-

No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority or the adjudicating officer appointed by the Authority under this Act, or Appellate Authority constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act”.

34. In the heading of CHAPTER X of the principal Act, for the words "OFFENCES AND PENALTIES", the words “OFFENCES, PENALTIES AND ADJUDICATION” shall be substituted.

35. In section 43 of the principal Act,-

(i) for sub-section (1) following shall be substituted:

(1) Any warehouseman knowingly issuing a warehouse receipt without taking the actual physical delivery of the goods in his warehouse or a warehouseman or an agent, employee or representative of the warehouseman who issues a warehouse receipt without reasonably satisfying himself that the goods for which such warehouse receipt is issued have actually been received or the number, weight or grade of the goods corresponds to the number, weight or grade specified in the warehouse receipt or the goods are under his actual control at the time of issuing such warehouse receipt, commits an act for which such warehouseman shall be liable to pay a penalty which may extend to four times the value of the goods.

Provided that, in case of negotiable warehouse receipt, in addition to the penalty under sub- section (1), the warehouseman shall also be liable for an imprisonment which may extend to three year(s).

(iii) Sub-section (2) shall be omitted.

(iv) For sub-sections (3), (4) and (5), the following sub-sections shall be substituted, namely:-

“(3) A warehouseman or an agent, employee or representative of the warehouseman, who knowingly that the warehouse receipt in respect of such goods is outstanding and is not cancelled, delivers the goods without such warehouse receipt being extinguished in case of delivery of all the goods or revised in case of partial delivery of some of the goods, at or before the time of such delivery and thereby causes unlawful loss or gain to any person, commits an act for which such warehouseman shall be liable to pay a penalty which shall not be less than one lakh rupees but may extend to ten lakh rupees.

Provided that, in case of negotiable warehouse receipt, in addition to the penalty under sub-section (3), the warehouseman shall also be liable for an imprisonment which may extend to three year(s).

(4) A warehouseman who fails, on instruction of delivery based on a warehouse receipt by the holder and payment of all his lawful charges and cancellation of encumbrances endorsed on a warehouse receipt, within the declared shelf-life of the goods, as mentioned therein to deliver the goods represented by warehouse receipt commits an act for which such warehouseman shall be liable to pay a penalty which shall not be less than value of goods at time of deposit but may extend to three times the value of the goods at the time of deposit.

Provided that, in case of negotiable warehouse receipt, in addition to the penalty under sub-section (4), the warehouseman shall also be liable for an imprisonment which may extend to three year(s).

(5) Any depositor, who declared as the value of the goods delivered by him for storage with a warehouseman an amount which he does not believe to be the proper value, commits an act for which such depositor shall be liable to pay a penalty which may extend upto the declared value of the goods.”

(v) After sub-section (5) the following sub sections shall be inserted, namely: -

“(6) Any depositor, who declares the value of the goods delivered by him for storage with a warehouseman and accepted by the warehouseman for whatever reasons and if Authority has reasons to believe that the value amount is not proper, then both depositor and the warehouseman, shall be jointly and severally liable to pay a penalty, which may extend to the declared value of the goods..

Provided that, in case of negotiable warehouse receipt, in addition to the penalty under sub-section (6), the warehouseman and the depositor shall also be liable for an imprisonment which may extend to three year(s).

(7) Any person who contravenes the provisions of sub section (6) of section 35B shall be liable to pay a penalty which may extend to one crore rupees and also with an additional penalty which may extend to five lakh rupees for every day after the first violation and during which the failure or refusal continues.

(8) Any warehouseman, repository, intermediary or any person associated with the warehousing market who commits any act in contravention of the provisions of this Act, the rules and regulations made thereunder, or direction of the Authority, which results in any loss or any unfair advantage to any person shall be liable to pay a penalty which shall be-

(a) three times the amount of the loss caused, or likely to have been caused to depositors, holders or other persons as a result of the violation; or

(b) three times the amount of the benefit or unfair advantage gained as a result of the violation,

whichever is higher.”

36. After section 43 of the principal Act, the following sections shall be inserted, namely :-

“43A. Penalty for failure to furnish information, return and the like.

If any person, who is required under this Act or any rules or regulations made thereunder or any directions of the Authority:

(a) to furnish any document, return or report to the Authority and fails to furnish the same, he shall be liable to pay a penalty which may extend to ten lakh rupees;

(b) to file any return or furnish any information, books or other documents within the time specified by the Authority, fails to file return or furnish the same within such time, he shall be liable to pay a penalty which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees;

(c) to maintain books of account or records and fails to maintain the same,

he shall be liable to pay a penalty which may extend to ten lakh rupees for warehouses storing agricultural goods and one crore rupees for warehouses storing non-agricultural goods and both agricultural and non-agricultural goods.

43B. Penalty for failure to redress depositors’ or holders’ grievances.

(1) If any warehouseman, repository or intermediary, after having been called upon by the Authority in writing, to redress the grievances of depositors or holders, fails to

redress such grievances to the satisfaction of the Authority within the time specified by the Authority, such warehouseman, repository or intermediary shall be liable to pay a penalty which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.

- (2) Notwithstanding anything contained in sub-section(1), in case the Authority discharges the functions of a repository by itself or through a subsidiary or special purpose entity, the grievance holder shall register the grievance in the form and manner as may be determined by the Authority for its resolution.

43C. Penalty for indulging in fraudulent and unfair trade practice.

If any person indulges in fraudulent and unfair trade practices relating to warehousing business, he shall be liable to pay a penalty which may extend to five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

43D. Penalty for contravention where no separate penalty has been provided.

Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Authority thereunder for which no separate penalty has been provided, shall be liable to pay a penalty which may extend to one crore rupees and in case of continuing contravention or failure, a penalty which may extend upto one lakh rupees for each day during which such failure continues.

43E. Power to adjudicate.

- (1) For the purpose of adjudging penalties under sections 43, 43A, 43B, 43C and 43D, the Authority shall appoint any officer not below the rank of a Director in the Authority to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned an opportunity of being heard for the purpose of imposing any penalty.

- (2) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

- (3) The Authority 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 warehousing market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 42, whichever is earlier.

43F. Factors to be taken into account by the adjudicating officer.

While adjudging quantum of penalty under section 43E, the adjudicating officer shall have due regard to the following factors, namely:

- (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 the depositors or holders as a result of the default; and
- (c) the repetitive nature of the default.

Explanation: For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under section 43 and sections 43A to 43D, shall be and shall always be deemed to have been exercised under the provisions of this section.

43G. Settlement of administrative and civil proceedings.

(1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 35A or section 43E, may file an application in writing to the Authority proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) Subject to such terms and conditions as may be specified, the Authority may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter as may be determined by such Authority.

(3) The settlement proceedings under this section shall be conducted in accordance with such procedure as may be specified by regulations.

(4) No appeal shall lie under section 42 against any order passed by the Authority or adjudicating officer under this section.”

37. After section 44 of the principal Act, the following section shall be inserted, namely:-

“44A. Non- payment of Penalty-

If any person fails to pay the penalty imposed by the adjudicating officer or the Authority, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years, or with fine, which may extend to one crore rupees or with both.”

38. Section 45 of the principal Act shall be substituted by the following section, namely :-

“45. Cognizance of offences by courts-

(i) for sub-section (1), the following sub-section shall be substituted, namely:-

(1) No court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Authority or by any officer authorised in writing in this behalf by the authority in view of the nature and gravity of the violation of this Act or rules or regulation made therein.”

39. In section 49 of the principal Act, the words “Wealth-tax Act, 1957 (27 of 1957),” and “wealth-tax,” shall be omitted.

40. In sub-section (2) of section 50 of the principal Act,-

(i) in clause (a) to (f) shall be omitted;

(ii) after clause (h), the following clauses shall be inserted, namely-

“(ha) such other amount which shall be credited to the Warehouse Depositor Protection Fund under clause (d) of sub-section (1) of section 37B;

(hb) the other purposes for utilization of the fund under sub-section (2) of section 37B;”

41. In section 51 of the principal Act,-

(i) In sub-section (1), the words "with the previous approval of the Central Government, and in consultation with the Warehousing Advisory Committee" shall be omitted;

(ii) In sub-section (2):-

(a) clause (a) shall be omitted;

(b) for clause (b), the following clause shall be substituted, namely:-

"(b) the manner of keeping a complete and accurate set of records and accounts under clause (a) of sub-section (1) of section 8;"

(c) after clause (b), the following clause shall be inserted, namely:-

"(ba) the form and manner and the period for which a warehouseman shall keep the records and accounts of the warehousing business under sub-section (2) of section 8;"

(d) after clause (d), the following clause shall be inserted, namely:-

"(da) the manner of transferring of goods represented by a non-negotiable warehouse receipt under sub-section (1) of section 20;"

(e) clause (e) shall be omitted;

(f) after clause (j), the following clauses shall be inserted, namely:-

"(ja) the duties and responsibilities of warehouseman and holder and mechanism for redressal of grievances under clause (o) of sub-section (2) of section 35;

(jb) the mechanisms for resolution of disputes under clause (oa) of sub-section (2) of section 35;

(jc) the mechanism for use of the Warehouse Depositor Protection Fund under clause (oc) of sub-section (2) of section 35;

(jd) the violations that would attract specific kinds of enforcement action under clause (a) of sub-section (5) of section 35D;

(je) the process of issuing a notice, order and process to make representations under clause (b) of sub-section (5) of section 35D;

(jf) the time for filing of any return or furnishing any information under clause (b) of section 43A;

(jg) the time to redress the grievances of depositors or holders under section 43B;

(jh) the terms and conditions for settlement under sub-section (2) of section 43G;

(ji) the procedure for conducting settlement proceedings under sub-section (3) of section 43.”

(g) after clause (k), the following clauses shall be inserted, namely:-

“(l) the manner of holding an inquiry by the adjudicating officer under sub-section (1) of section 43E.

(m) the form and manner in which an application for obtaining a certificate of registration for commencing or carrying on the warehousing business may be made and the fees which shall accompany such application under sub-section (2) of section 4;

(n) the form in which a certificate for registration of warehouses may be issued under sub-section (3) of section 4;

(o) the financial, managerial and other eligibility criteria and competence which an applicant for registration of warehouses shall satisfy under sub-section (4) of section 4;”

42. In section 54 of the principal Act,-

(i) In sub-section (1), after the words “giving effect to the provisions of this Act”, the words “as amended by Warehousing (Development and Regulation) (Amendment) Act, 2023” shall be inserted.

(ii) In proviso to sub-section (1), for the words “commencement of this Act”, the words “commencement of the Warehousing (Development and Regulation) (Amendment) Act, 2023” shall be substituted.