



The Mizoram Gazette

Published by Authority

Vol. II AIZAWL, Friday, June 1, 1973, JYAISTHA 11, S.E. 1895. Issue No. 9

GOVERNMENT OF MIZORAM

PART V

Acts of Parliament and Ordinances promulgated by the President ;

Bills introduced in the Parliament of India,

Bills published before introduction in the Parliament, and

Reports of selection Committees presented in the Parliament.

**THE RECHARDSON AND CRUDDAS LIMITED
(ACQUISITION AND TRANSFER OF UNDERTAKING)
ACT, 1972**

ARRANGEMENT OF CLAUSES

PART I

**ACQUISITION AND TRANSFER OF THE UNDERTAKING OF RICHARDSON AND
CRUDDAS LIMITED**

CHAPTER 1 — PRELIMINARY

CLAUSES

1. Short title.
2. Definitions.

**CHAPTER 11.—ACQUISITION OF THE UNDERTAKING OF THE RICHARDSON AND
CRUDDAS LIMITED**

3. Undertaking of the old company to vest in the Central Government.
4. General effect of vesting.
5. Duty to deliver possession of property acquired and documents relating thereto.
6. Duty to furnish particulars.
7. Transfer of employees of the old company.
8. Payment of amount.

**CHAPTER 111.—MANAGEMENT AND ADMINISTRATION OF THE NEW
COMPANY**

9. Formation and registration of a new company.

CHAPTER IV.—MANAGEMENT OF THE OLD COMPANY

10. Management of the old company.
11. Costodian to be public servant.
12. Vacation of office by directors, etc; of the old company.

PART II

RECTIFICATION OF THE REGISTER OF MEMBERS OF THE OLD COMPANY

CHAPTER I.—CONSTITUTION OF A TRIBUNAL

13. Constitution of a Tribunal.

CLAUSES

CHAPTER 11.—POWERS AND DUTIES OF THE TRIBUNAL

14. Tribunal to call upon persons to make claims.
15. Determination of genuine shares.
16. No compensation for cancellation of spurious shares.
17. Power of Tribunal to entertain and dispose of claims for reimbursement.
18. Suits and legal proceedings not to be commenced or proceeded with.
19. Decision of the Tribunal to be final.

CHAPTER III.—DUTY OF CUSTODIAN TO RECONSTRUCT REGISTER OF MEMBERS OF THE OLD COMPANY

20. Custodian to reconstruct register of members of the old company.
21. Custodian to issue fresh share certificates.
22. No annual general meeting of the old company to be held before the reconstruction of the register of members.
23. Custodian to file accounts until reconstruction of the register of members of the old company.

PART III
OFFENCES AND THEIR TRIAL

24. Penalties.
25. Offences by Companies.
26. Offences to be triable by a magistrate of the first class and not to be compoundable.

PART IV

MISCELLANEOUS

27. Protection of action taken in good faith.
28. Contracts, etc, in bad faith may be cancelled or varied.
29. Power to terminate contract of employment.
30. Power to remove difficulty.
31. Power to make rules.

**THE RICHARDSON AND CRUDDAS LIMITED
(ACQUISITION AND TRANSFER OF UNDERTAKING)
ACT, 1972
(AS PASSED THE HOUSES PARLIAMENT)**

**AN
ACT**

to provide for the acquisition and transfer of the undertaking of the Richardson and Cruddas Limited, for the reconstruction of the register of its members and for matters connected therewith or incidental thereto.

7 of 1913. WHEREAS the Richardson and Cruddas Limited, a company formed and registered under the Indian Companies Act, 1913, is engaged in the production of goods needed by the defence establishments, railways, steel plants and power projects;

AND WHEREAS the mismanagement of the said company by its erstwhile managing agents and Board of Directors had seriously affected the production and supply of goods by the said company;

AND WHEREAS it is not possible for the said company to provide for its proper management by a duly constituted Board of Directors in view of the existence of a large number of duplicate shares in the capital of the said company;

AND WHEREAS for ensuring, in the interests of the community, the continuity of production and supply of goods by the said company, it is expedient in the public interest to acquire the undertaking of the said company;

BE it enacted by parliament in the Twenty-third Year of the Republic of India as follows:—

PART 1

**ACQUISITION AND TRANSFER OF THE UNDERTAKING OF
RICHARDSON AND CRUDDAS LIMITED**

CHAPTER 1.—PRELIMINARY

1. This Act may be called the Richardson and Cruddas Limited (Acquisition and Transfer of Undertaking) Act, 1972.

Short
title.

Definitions.

2. (1) In this Act, unless the context otherwise requires. —

(a) “appointed day” means such date as the Central Government may, by notification, appoint ;

(b) “Custodian” means the person who is appointed, under section 10, as the Custodian of the old company ;

(c) “Nationalised Bank” means a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 ;

5 of 1970.

(d) “new company” means the Government company, formed and registered under the Companies Act, 1956, in pursuance of the provisions of section 9 ;

1 of 1956.

(e) “notification” means a notification published in the Official Gazette ;

(f) “old company” means the Richardson and Cruddas Limited, a company formed and registered under the India Companies Act, 1913 and having its registered office in the State of West Bengal ;

7 of 1913.

(g) “prescribed” means prescribed by rules made under this Act ;

(h) “scheduled bank” has the meaning assigned to it in the Reserved Bank of India Act, 1934, includes a Nationalised Bank ;

2 of 1934.

(i) “share” means a share in the capital of the company ;

(j) “Tribunal” means the Tribunal constituted under section 13.

(2) Words and expressions used herein and not defined but defined in the Companies Act, 1956, have, save as otherwise expressly provided in this Act, the meanings respectively assigned to them in that Act.

1 of 1956.

CHAPTER II.—ACQUISITION OF THE UNDERTAKING OF THE RICHARDSON AND CRUDDAS LIMITED

Under-
taking of
the old
company
to vest
in the
Central
Govern-
ment.

3. On the appointed day, the undertaking of the old company shall stand transferred to, and vest in, the Central Government, and that Government shall, immediately thereafter, provide, by notification, for the transfer to, and vesting in, of such undertaking in the new company.

General
effect of
vesting.

4. (1) The undertaking of the old company shall be deemed to include all assets, rights, powers, authorities and privileges and all property, moveable and immovable, cash balances, reserve funds, investments and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the old company in relation to the undertaking, whether within or without India, and all books of account, register (other than register of members and documents, relating thereto), records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the old company in relation to the undertaking.

(2) Unless otherwise expressly provided by this Act, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the appointed day which relate to the undertaking of the old company, shall be of as full force and effect in favour of the Central Government, and on the transfer of such undertaking to the new company, of such new company and may be enforced or acted upon as fully and effectively as if they had related to the Central Government or the new company, as the case may be.

(3) (a) If, on the appointed day, a proceeding instituted by the old company in relation to the undertaking referred to in section 3 is pending, such proceeding may, as from that day, be continued by the Central Government or, on the transfer of the undertaking to the new company, by the new company.

(b) If, on the appointed day, any cause of action is existing against the old company in relation to the undertaking referred to in section 3, such cause of action may, as from that day, be enforced against the Central Government or, on the transfer of the undertaking to the new company, against the new company.

(c) Save as otherwise provided in clauses (a) and (b), no suit, proceeding or cause of action by or against the old company shall be continued or enforced by or against the Central Government or the new company.

5. (1) Where any property has vested in the Central Government under section 3, every person in whose possession or custody or under whose control the property may be, shall deliver the property to the Central Government forthwith.

Duty to deliver possession of property acquired and documents relating thereto.

(2) Any person who, on the appointed day, has in his possession or under his control any books, documents or other papers relating to the undertaking which has vested in the Central Government under this Act and which belong to the old company, or, would have so belonged if the undertaking of the old company had not vested in the Central Government, shall be liable to account for the said books, documents or other papers to the Central Government and, on the transfer of such undertaking to the company, to that company, shall deliver them up to the Central Government or the new company, as the case may be, or to such other person as the Central Government or the new company may specify in this behalf.

(3) The Central Government may take, or cause to be taken, all necessary steps for securing possession of all properties which have vested in that Government under section 3.

6. (1) The old company shall, within such period as the Central Government may allow in this behalf, furnish to that Government, and the new company, a complete inventory of all the properties and assets (including particulars of investments) of the old company on the appointed day; all liabilities and obligations of the old company subsisting on that day and also all agreements entered into by the old company and in force on that day including agreements, whether express or implied, relating to leave, pension, gratuity and other terms of service of any officer or other employee of the old company under which, by virtue of this Act, the Central Government has, or will have, or may have, the liabilities and, for this purpose, the Central Government and the new company shall afford the old company all reasonable facilities.

Duty to furnish particulars.

(2) The old company shall, if required by the Central Government or new company so to do, furnish such returns or information relating to the undertaking referred to in section 3, or, any person employed by the old company for the purpose of such undertaking, as may be specified in such requisition.

Transfer of employees of the old Company.

7. (1) Every officer or other employee of the old company (except a director or any managerial personnel specified in section 197A of the Companies Act, 1956, or any other person entitled to manage the whole or a substantial part of the business of the old company under a special agreement

I of 1956

5

with that company) in the employment of the old company immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the affairs of the undertaking of the old company, become, as from the appointed day, an officer or other employee, as the case may be, of the Central Government and, on the transfer of such undertaking to the new company, of that company, and shall hold his office on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if the undertaking of the old company had not been transferred to and vested in the Central Government or the new company, and continue to do so unless and until his employment in the Central Government or the new company is duly terminated or until the remuneration, terms or conditions of service are duly altered by the Central Government or the new company, as the case may be :

Provided that if the alteration so made is not acceptable to any officer or other employee, his employment shall be terminated on payment to him by the Central Government or the new company, as the case may be, of an amount equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in the case of other employees.

Provided further that nothing contained in this sub-section shall apply to any officer or other employee who has, by notice in writing given to the Central Government or the new company, within thirty days next following the appointed day, intimated his intention of not becoming an officer or other employee of the Central Government or the new company, as the case may be.

(2) For the persons, who, immediately before the appointed day, were the trustees for any pension, provident fund, gratuity or other like fund constituted for the officer or other employees of the old company, there shall be substituted as trustees such persons as the Central Government or the new company may, by general or special order, specify.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the service of any officer or other employee from the old company to the Central Government or the new company shall not entitle such officer or other employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority. 14 of 1947

8. (1) For the transfer, under section 3, of the undertaking of the old company to the Central Government, there shall be paid by the Central Government, to the Custodian an amount of rupees thirty lakhs. Payment of amount

(2) The Custodian shall open an account in the name of the old company in any scheduled bank and credit the said amount to the said account and hold the said amount in trust for and on behalf of the old company.

CHAPTER III.—MANAGEMENT AND ADMINISTRATION OF THE NEW COMPANY.

9. For the efficient management and administration of the undertaking which will vest in the Central Government under section 3, there shall be formed and registered, before the appointed day, a Government company, with the name "Richardson and Cruddas (1972) Limited", in accordance with the provisions of the Companies Act, 1956 Formation and registration of a new company

1 of 1956

CHAPTER IV.—MANAGEMENT OF THE OLD COMPANY

10. (1) The affairs of the old company shall be managed by a Custodian to be appointed by the Central Government in this behalf : Management of the old company

Provided that the Central Government may, if the Custodian declines to become, or to continue to function as, the Custodian or if it is of opinion that it is necessary in the interests of the old company so to do, appoint any other person as the Custodian of the old company.

(2) The Custodian appointed under sub-section (1) shall receive, from the funds of the old Company, such emoluments as the Central Government may specify in this behalf.

(3) The Custodian shall hold office during the pleasure of the Central Government.

11. The Custodian shall be a public servant within the meaning of section 21 of the Indian Penal Code. Custodian to be public servant.

45 of 1860.

12. (1) On the appointment of a Custodian, every person holding office, immediately before such appointment, as director or manager of the old company shall, notwithstanding anything contained in any other law for the time being in force or any decree or order of any court or tribunal, vacate such office. Vacation of office by directors, etc., of the old company.

(2) The Custodian shall receive the sum referred to in section 8 and shall deal with the said sum for meeting any liability which is incurred by the old company after the appointed day, and the balance, if any, left after meeting the said liability, in accordance with the wishes of the members of the old company, expressed in a general meeting convened by the Custodian, and the provisions of the Companies Act, 1956, 1 of 1956, shall, so far as may be, apply to such meeting.

(3) The Custodian may, if the members of the old company so desire, distribute the balance referred to in sub-section (2) amongst such members in accordance with their rights and interests and thereafter apply to the Court for the winding up of the old company by the Court.

PART II

RECTIFICATION OF THE REGISTER OF MEMBERS OF THE OLD COMPANY

CHAPTER 1.—CONSTITUTION OF A TRIBUNAL

Constitu-
tion of a
Tribunal. 13, (1) For the purpose of rectification of the register of members of the old company, the Central Government shall, by notification, constitute a Tribunal consisting of one person who is or has been a Judge of a High Court.

(2) If, for any reason, a vacancy (other than a temporary absence) occurs in the office of the presiding officer of the Tribunal, the Central Government shall appoint another person, in accordance with the provisions of this section, to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy is filled.

(3) The Central Government shall make available to the Tribunal such staff as may be necessary for the discharge of its functions under this Act.

(4) All expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund of India.

(5) The Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places at which it shall hold its sittings :

Provided that the Tribunal shall, as far as practicable, follow the procedure laid down in the Code of Civil Procedure, 1908, 5 of 1908, for the investigation of claims and the decision of the Tribunal shall be final.

(6) The Tribunal shall, for the purpose of making an inquiry under this Act, 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 summoning and enforcing the attendance of any witness and examining him on oath,

(b) the discovery and production of any document or other material producible as evidence,

(c) the reception of evidence on affidavits,

(d) the requisitioning of any public record from any court or office,

(e) issue of any commission for the examination of witnesses.

(7) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of section 45 of 1860. 193 of the Indian Penal Code, and the Tribunal shall be deemed to be a civil court for the purpose of section 195 and Chapter XXXV of the Code of Criminal Procedure, 5 of 1898. 1898

CHAPTER 11— POWERS AND DUTIES OF THE TRIBUNAL

14. (1) The Tribunal shall, by notification and in such other manner as may be prescribed, call upon every person, who claims to have any interest in any share, to prefer his claim within thirty days from such date as may be specified in the notification. Tribunal to call upon persons to make claims

(2) Every person claiming an interest in any share shall make his claim before the Tribunal in such form as may be prescribed, stating therein the rights claimed by him in the share and the manner in which, and the date on which, such right was acquired by him.

(3) The Tribunal may, if it is satisfied that any claimant had sufficient cause for not preferring the claim within thirty days from the date specified in the notification, admit such claim within a further period of thirty days.

15. The Tribunal shall, after taking such evidence as may be adduced before it and after making such inquiry as it may think fit and after hearing such persons as may desire to be heard, determine which of the documents purporting to be shares represent, in reality, a contribution to the capital of the old company, and on such determination, all Determination of genuine shares.

other documents purporting to be shares shall stand declared to be spurious and shall stand cancelled.

16. (1) No holder of a document purporting to be a share shall be entitled to claim either from the Central Government or from the old or new Company any damages for the cancellation of such document by virtue of the provisions of section 15.

No Com-
pensation
for
cancellation
of spurious
shares.

(2) Subject to the provisions of sub-section (1), every person who had acquired a document, purporting to be a share, bona fide for value without notice of the fact that it did not represent any contribution to the capital of the old company, shall be entitled to claim reimbursement from the person from whom such document was acquired by him, and, the period of limitation for any action for such reimbursement shall be deemed to commence on the date on which the document held by him as a share stands cancelled under section 15.

Power of Tribunal to entertain and dispose of claims for reimbursement. 17. (1) The Tribunal shall have jurisdiction to entertain and dispose of any claim for reimbursement referred to in sub-section (2) of section 16.

(2) Every such claim shall be made before the Tribunal within thirty days from the date on which the document purporting to be a share stands cancelled under section 15.

Suits and legal proceedings, not to be commenced or proceeded with. 18. (1) On and from the date on which the Tribunal is constituted, no suit or other legal proceeding shall be commenced, or if pending at the date of such constitution, shall be proceeded with, against the old company except with the leave of the Tribunal and subject to such terms as the Tribunal may impose.

(2) Save as otherwise provided in this Act, the Tribunal shall have, and no court or other tribunal shall have, jurisdiction to entertain or dispose of—

(a) any suit or proceeding by, or on behalf of, or against the old company;

(b) any claim made by, or on behalf of, or against, the old company;

(c) any question of priorities and any other question whatsoever, whether of law or of fact, which may relate to, or arise in relation to, the genuineness or otherwise of any share or in relation to any rights or obligations under such share,

whether such suit or proceeding has been instituted, or is instituted, or such claim or question has arisen or arises before or after the constitution of the Tribunal.

(3) If, on the appointed day, any suit, appeal or other proceeding of whatever nature by or against the old company in relation to any business of that company is pending in any court, such suit, appeal or other proceeding shall, notwithstanding anything contained in any other law for the time being in force or in any contract, stand transferred to, and shall be disposed of by, the Tribunal and thereupon no other court or tribunal shall have jurisdiction to try such suit, appeal or proceeding.

Explanation—A suit or other proceeding relating to the title to, or claim in or in relation to, any share or any document purporting to be a share shall be deemed to be a suit or other proceeding relating to the business of the old company.

(4) Nothing in sub-section (1) or sub-section (3) shall apply to any petition or appeal arising out of any petition made under article 32, article 226 or article 227 of the Constitution

19. Every decision, under this Act, of the Tribunal shall be final and shall not be called in question in any court except by way of a petition under article 32 or article 226 of the Constitution.

CHAPTER III.—DUTY OF CUSTODIAN TO RECONSTRUCT REGISTER OF MEMBERS OF THE OLD COMPANY

20. (1) The Custodian shall reconstruct the register of members of the old company and shall include therein the names of the holders of the shares which have been declared by the Tribunal as representing, in reality, a contribution to the capital of the old company and strike off from the register of members of the old company the names of the holders of the documents purporting to be shares which stand, by reason of the determination made by the Tribunal under section 15, cancelled.

Custodian to reconstruct register of members of the old company.

Decision of the Tribunal to be final.

(2) On and from the date of reconstruction of the register of members of the old company,—

(a) the register, as so reconstructed, shall be deemed to be the register of members of the old company, and

(b) all registers, of members maintained by the old company, immediately before the said date, shall stand cancelled.

21. (1) The Custodian shall issue, in such form as may be prescribed, fresh share certificates in relation to the shares which have been declared by the Tribunal as representing, in reality, a contribution to the capital of the old company.

Custodian
to issue
fresh share
certifi-
cates.

(2) All share certificates issued by the old company before the date of the determination made by the Tribunal shall, on and from such determination, stand cancelled.

1 of 1956. 22. (1) Notwithstanding anything contained in the Companies Act, 1956, or any other law for the time being in force, no annual or other general meeting of the old company shall be held until the reconstruction of the register of members of the old company has been completed in accordance with the provisions of this Act.

No annual
general
meeting of
the old
company to
be held
before the
reconstruction of the
register of
members.

(2) No resolution purported to have been passed at any meeting of the members of the old company shall, until the reconstruction of its register of members, have effect.

23. (1) Until the register of members of the old company is finally reconstructed, the Custodian shall file every year with the Registrar, the annual accounts of the old company.

Custodian
to file
Accounts
until re-
construction of
the register of
members
of the old
company.

1 of 1956. (2) The provisions of the Companies Act, 1956, shall, as far as may be, apply to the annual accounts referred to in sub-section (1)

PART III

OFFENCES AND THEIR TRIAL

24. (1) Any person who,—

(a) having in his possession, custody or control any property forming part of the undertaking which has vested in the Central Government under section 3, wrongfully withholds such property from the Central Government or new Company, or

(b) wrongfully obtains possession of any property forming part of such undertaking, or

(c) being required by sub-section (2) of section 5 so to do, wilfully withholds or fails to furnish to the Central Government, new company or any other person specified by that Government or the new company, any document which may be in his possession, custody or control, or

(d) Wilfully fails to furnish an inventory as required by section 6, or furnishes an inventory containing any particulars which are incorrect or false in material particulars and which he either knows or believes to be false or does not believe to be true, or

(e) being required by the Central Government or the new Company in writing so to do, fails to furnish any return, statement or other information relating to the undertaking of the old Company which has vested in the Central Government under section 3, or

(f) makes a false or frivolous claim before the Tribunal with regard to the ownership of, or any right in, any share, or

(g) fails to comply with any order or direction made under this Act,

shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both:

Provided that the court trying any offence under clause (a), clause (b) or clause (c) of this sub-section may, at the time of convicting the accused person, order him to deliver up or refund, within a period to be fixed by the court, any property or money wrongfully withheld or wrongfully obtained or any document wilfully withheld or not furnished.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or an officer authorised by that Government in this behalf.

Offences by companies. 25. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a Company and it is proved that the offence was committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm, means a partner in the firm.

26. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, Offences to be triable by a Magistrate of the first class and not to be compoundable.

(a) every offence against this Act shall be triable by Magistrate of the first class, and

(b) no offence against this Act shall be compoundable.

PART IV

MISCELLANEOUS

27. (1) No suit, prosecution or other legal proceeding shall lie against the Custodian in respect of anything which is in good faith done or intended to be done under this Act. Protection of action taken in good faith.

(2) No suit or other legal proceeding shall lie against the Central Government or the Custodian or the new company for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

28. (1) If the Central Government is satisfied, after such inquiry as it thinks fit, that any contract or agreement entered into at any time within twelve months immediately preceding the appointed day, between the old company and any other person has been entered into in bad faith and is detrimental to the interests of the old company or of the new company, it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) the contract or agreement and thereafter the contract or agreement shall have effect accordingly.

Contracts,
etc., in
bad faith
may be
cancelled
or varied.

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(2) Any person aggrieved by an order made under subsection (1) may make an application to the Tribunal for the variation or reversal of such order and thereupon the Tribunal may confirm, modify or reverse such order.

29. If the Custodian is of opinion that any contract of employment entered into by or on behalf of the old company at any time before the appointed day is unduly onerous, he may, by giving to the employee one month's notice in writing or the salary or wages for one month in lieu thereof, terminate such contract of employment.

Power to
terminate
contract
of employ-
ment.

30. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Power to
remove
difficulty.

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

31. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

Power to
make
rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the form and manner in which every claim shall be preferred before the Tribunal;

(b) the form in which fresh shares shall be issued by the Custodian;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SICK TEXTILE UNDERTAKINGS (TAKING OVER OF MANAGEMENT) ACT, 1972

AN

ACT

to provide for the taking over, in the public interest, of the management of the sick textile undertakings, pending nationalisation of such undertakings, for the expeditious rehabilitation of such undertakings so that such rehabilitation may subserve the interests of the general public by the augmentation of the production and distribution, at fair prices, of cheaper varieties of cloth, and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Twenty-third Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Sick Textile Undertakings (Taking Over of Management) Act, 1972.

Short title
and com-
mencement

(2) It shall be deemed to have come into force on the 31st day of October, 1972.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appointed day” means the 31st day of October, 1972;

(b) “notification” means a notification published in the Official Gazette;

(c) “owner”, in relation to a textile undertaking, means the company, individual, body of individuals or firm by which it is owned;

(d) “sick textile undertaking” means the textile undertaking which falls within one or more of the following categories, namely :—

(i) which is owned by a textile company which is being wound up, whether voluntarily or by or under the supervision of any Court, or in respect of which a provisional liquidator has been appointed by a Court,

(ii) which had remained closed for a period of not less than three months immediately before the appointed day and the closure of which is prejudicial to the textile industry, and the condition of the undertaking is such that it may, with reasonable inputs, be re-started in the interests of the general public,

(iii) which has been leased to Government or any other person or the management of which has been taken over by Government or any other person under any leave or licence granted by any Receiver or Liquidator by or under the orders of, or with the approval of, any Court,

(iv) the management of which was authorised by the Central Government, by a notified order made under section 18A, or in pursuance of an order made by the High Court under section 18FA, of the Industries (Development and Regulation) Act, 1951, to be taken over by a person or body of persons, but such management could not be taken over by such person or body of persons, before the appointed day, 65 of 1951.

(v) the management of which ought to be [according to the report made after investigation by any person or body of persons appointed after the 1st day of January, 1970, under section 15 or section 15A of the Industries (Development and Regulation) Act, 1951] taken over under section 18A of that Act, but in relation to which no notified order authorising any person or body of persons to take over the management of such undertaking was made before the appointed day, 65 of 1951.

(vi) in respect of which an investigation was caused to be made, before the appointed day, by the Central Government under section 15 or section 15A of the Industries (Development and Regulation) Act, 1951, and the report of such investigation was not received by the Central Government before the appointed day; 65 of 1951.

and includes any textile undertaking which is deemed, under sub-section (2) of section 4, to be a sick textile undertaking;

(e) "textile" includes yarn or fabrics made either wholly or partly of cotton, wool, jute, synthetic and artificial (man-made) fibres;

(f) "textile company" means a company specified in the third column of the First Schedule as owning the textile undertaking specified in the corresponding entry in the second column of that Schedule;

(g) "textile undertaking" means an undertaking engaged in the manufacture of textiles and to which the provisions of the Factories Act, 1948, apply;

63 of 1948.

(h) words and expressions used but not defined in this Act and defined in the Industries (Development and Regulation) Act, 1951, shall have the meanings respectively assigned to them in that Act;

65 of 1951.

(i) words and expressions used but not defined either in this Act or in the Industries (Development and Regulation) Act, 1951, but defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in the Companies Act, 1956.

1 of 1956.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment (other than this Act) or any judgment, decree or order of any Court, tribunal or other authority or any instrument having effect by virtue of any enactment other than this Act.

Act to
override
all other
enact-
ment, etc.

CHAPTER II

MANAGEMENT OF SICK TEXTILE UNDERTAKINGS

4. (1) On and from the appointed day, the management of all the sick textile undertakings specified in the First Schedule shall vest in the Central Government.

Manage-
ment of
sick tex-
tile under-
takings to
vest in
Central
Govern-
ment on
the ap-
pointed
day.

(2) If, after the commencement of this Act, any investigation is ordered, under section 15 or section 15A of the Industries (Development and Regulation) Act, 1951, in relation to any textile undertaking, and it is reported after such investigation that the management of such textile undertaking ought to be taken over under section 18A of that Act, the Central Government may, if it is satisfied after consideration of such report and other relevant matters that such undertaking ought to be declared to be a sick textile undertaking, make a declaration to that effect and further declare that the management of such textile undertaking ought to be taken over by it under this Act and on and from the date of such declaration,—

65 of 1951.

(i) the textile undertaking specified in such declaration shall be deemed to be a sick textile undertaking,

(ii) the management of such textile undertaking shall be deemed, for the purposes of this Act, to vest in the Central Government and

(iii) the textile undertaking and the textile company owning it shall be deemed to be included in the First Schedule,

and thereupon the provisions of this Act shall become applicable thereto subject to the modification that for the words "appointed day", wherever they occur, the words, brackets and figures "date of the declaration made by the Central Government under sub-section (2) of section 4" shall be substituted.

(3) The sick textile undertaking shall be deemed to include all assets, rights, powers, authorities and privileges of the textile company, in relation to the said sick textile undertaking, and all property, movable and immovable, including lands, buildings workshops, stores, instruments, machinery, automobiles and other vehicles and goods under production or in transit, cash balances, reserve fund, investments and all other rights and interests in, or arising out of, such property as were; immediately before the appointed day, in the ownership, possession, power or control of the textile company, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

(4) Any contract, whether express or implied, or other arrangement (whether under any statute or otherwise) in so far as it relates to the management of the business and affairs of the sick textile undertaking, and in force immediately before the appointed day, or any order made by any Court in so far as it relates to the management of the business and affairs of the sick textile undertaking and in force immediately before the appointed day, shall be deemed to have terminated on the appointed day.

(5) All persons in whom the management of the business and affairs of the sick textile undertaking vests immediately before the appointed day, shall, as from that day, cease to be so vested.

(6) Notwithstanding any judgment, decree or order of any Court, tribunal or order authority or anything contained in any law (other than this Act) for the time being in force, every Receiver, Official Liquidator or other person in whose possession or Custody or under whose control a sick textile undertaking or any part thereof may be immediately before the appointed day, shall, on the commencement of this Act, deliver the possession of the said undertaking or such part thereof, as the case may be, to the Custodian, appointed under section 5, or, where no Custodian has been appointed, to such other person as the Central Government may direct.

(7) The Central Government may take, or cause to be taken, all necessary steps for securing the possession of the sick textile undertaking which has vested in it under section 4.

(8) No resolution passed at any meeting of the shareholders of any textile company on or after the appointed day regarding the business of the textile company, in so far as it relates to the sick textile undertaking, shall be given effect to unless approved by the Central Government.

Appoint-
ment of
Custodian
to take
over the
manage-
ment of
the sick
textile
under-
taking.

5. (1) The Central Government may, as soon as it is convenient administratively so to do, appoint an individual or a Government company as the Custodian of a sick textile undertaking for the purpose of taking over the management of such undertaking and the Custodian so appointed shall carry on the management of such undertaking for and on behalf of the Central Government.

(2) The Central Government may also appoint a Government company as the Custodian-General for exercising supervision and control over all the sick textile undertakings, the management of which has vested in it under this Act, and, on such appointment, every Custodian appointed under subsection (1) shall act under the guidance, control and supervision of the Custodian-General.

(3) On the appointment of a Custodian under sub-section (1), the charge of management of the sick textile undertaking shall vest in such Custodian and all persons in charge of the management of such undertaking immediately before such appointment shall cease to be in charge of such management and shall be bound to deliver to the Custodian all assets, books of account, registers or other documents in their custody relating to the sick textile undertaking.

(4) The Central Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any Court, tribunal or other authority) to the Custodian or Custodian-General as to his or its powers and duties as the Central Government deems desirable and the Custodian or the Custodian-General may apply to the Central Government at any time for instructions as to the manner in which the Custodian or the Custodian-General shall conduct the management of the undertaking of the company or in relation to any matter arising in the course of such management.

(5) Any person who, on the appointed day, has in his possession or under his control any books, papers or other documents relating to the sick textile undertaking, the man-

agement of which has vested in the Central Government under this Act, shall, notwithstanding anything contained in any other law for the time being in force, be liable, to account for the books, papers and other documents, to the Custodian and shall deliver them up to the Custodian or to such other person as may be authorised by the Central Government or the Custodian in this behalf.

(6) Every person in charge of the management of a sick textile undertaking, immediately before the appointed day, shall, within ten days from that day or within such further period as the Central Government may allow in this behalf, furnish to the Custodian a complete inventory of all the properties and assets (including particulars of book debts, investments and belongings) forming part of the sick textile undertaking immediately before the appointed day and of all liabilities and obligations of the sick textile undertaking subsisting immediately before that day and also of all agreements entered into by the textile company, in relation to the sick textile undertaking, and in force immediately before that day.

(7) The Custodian and Custodian-General shall hold office during the pleasure of the Central Government and shall receive from the funds of the sick textile undertaking such remuneration as may be fixed by the Central Government.

6. (1) The owner of every textile undertaking shall be Payment given by the Central Government an amount, in cash, for of amount. vesting in it, under sub-section (1), or sub-section (2), as the case may be, of section 4, the management of the sick textile undertaking of such company.

(2) For every month during which the management of the sick textile undertaking remains vested in the Central Government under this Act, the amount referred to in sub-section (1) shall be computed at the rate of,—

(1) fifty paise per one thousand spindles or any part thereof, in the case of a sick textile undertaking having spindles only;

(ii) one rupee per one hundred looms or any part thereof, in the case of a sick textile undertaking having looms only;

(iii) fifty paise per one thousand spindles or any part thereof, and one rupee per one hundred looms or any part thereof, in the case of a sick textile undertaking having both spindles and looms.

CHAPTER III

POWER TO PROVIDE RELIEF TO SICK TEXTILE UNDERTAKINGS

7. (1) The Central Government may, if satisfied, in relation to a sick textile undertaking or any part thereof, the management of which has vested in it under this Act, that it is necessary so to do in the interests of the general public with a view to preventing the fall in the volume of production of the textile industry, by notification, declare that—

Power of Central Government to make certain declarations in relation

(a) all or any of the enactments specified in the Second Schedule shall not apply or shall apply with such adaptations, whether by way of modification, addition or omission (which does not, however, effect the policy of the said enactments) to such sick textile undertaking, as may be specified in such notification, or

to sick textile undertakings.

(b) the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force (to which such sick textile undertaking or the company owning such undertaking is a party or which may be applicable to such sick textile undertaking or company) immediately before the date of issue of the notification shall remain suspended or that all or any of the rights, privileges, obligations and liabilities accruing or arising thereunder before the said date, shall remain suspended or shall be enforceable with such adaptations and in such manner as may be specified in the notification.

(2) The notification made under sub-section (1) shall remain in force, in the first instance, for a period of one year, but the duration of such notification may be extended from time to time by a further notification by a period not exceeding one year at a time.

Provided that no such notification shall, in any case, remain in force after the expiry of three years from the commencement of this Act.

(3) Any notification made under sub-section (1) shall have effect notwithstanding anything to the contrary contained in any other law, agreement or instrument or any decree or order of a Court, tribunal, officer or other authority or of any submission, settlement or standing order.

(4) Any remedy for the enforcement of any right, privilege, obligation or liability referred to in clause (b) of sub-

section (1) and suspended or modified by a notification made under that sub-section shall, in accordance with the terms of the notification, remain suspended or modified and all proceedings relating thereto pending before any Court, tribunal, officer or other authority shall accordingly remain stayed or be continued subject to such adaptations, so, however, that on the notification ceasing to have effect—

(a) any right, privilege, obligation or liability so remaining suspended or modified shall become revived and enforceable as if the notification had never been made;

(b) any proceeding so remaining stayed shall be proceeded with subject to the provisions of any law which may then be in force, from the stage which had been reached when the proceeding became stayed.

(5) In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in clause (b) of sub-section (1), the period during which it or the remedy for the enforcement thereof remained suspended shall be excluded.

CHAPTER IV

MISCELLANEOUS

Textile
companies
not to
wound up.

8. (1) No proceeding for the winding up of a textile company, within the meaning of this Act, shall lie in any Court or be continued whether by or under the supervision of any Court or voluntarily, except with the consent of the Central Government.

(2) In computing the period of limitation prescribed by any law for the time being in force for any application which may be made in the course of winding up of any textile company in respect of any matter arising out of any transaction in relation to a sick textile undertaking, the time during which the making of such application was barred by this Act, shall be excluded.

Contracts,
etc., in
bad faith
may be
cancelled
or varied.

9. (1) If the Central Government is satisfied, after such inquiry as it may think fit, that any contract or agreement entered into, at any time within twelve months immediately preceding the appointed day, between the owner of any sick textile undertaking or his agent and any other person, in relation to such sick textile undertaking, has been entered into in bad faith or is detrimental to the interests of the sick textile undertaking, it may make an order cancelling or varying (either unconditionally or subject to such conditions

as it may think fit to impose) the contract or agreement and thereafter the contract or agreement shall have effect accordingly:

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(2) Any person aggrieved by an order made under sub-section (1) may make an application to the principal Court of civil jurisdiction within the local limits of whose jurisdiction the registered office of the sick textile undertaking is situated for the variation or reversal of such order and, thereupon such Court may confirm, modify or reverse such order.

10. If the Custodian or Custodian-General is of opinion that any contract of employment entered into by the owner of any sick textile undertaking or his agent, in relation to such sick textile undertaking, at any time before the appointed day, is unduly onerous, he may, by giving to the employee one month's notice in writing of the salary or wages for one month in lieu thereof, terminate such contract of employment. Power to terminate the contract of employment.

11. (1) Pending the taking over by a Custodian, appointed under section 5, of the physical possession of any sick textile undertaking, the person in charge of the management of such undertaking immediately before the appointed day, shall on and from the appointed day, be in charge of the management of such undertaking for and on behalf of the Central Government; and the management of such undertaking shall be carried on by such person subject to the provisions contained in sub-section (2) and such directions, if any, as the Central Government may give to him, and no other person, including the textile company, shall, so long as such management continues, exercise any powers of management in relation to the sick textile undertaking. Management of sick textile undertakings pending taking over physical possession by the Custodian.

(2) (a) No person in charge, under sub-section (1), of a sick textile undertaking shall; or

(b) No person in charge of the textile undertaking of a company in relation to which any investigation has been ordered, after the commencement of this Act, under section 15 or section 15A of the Industries (Development and Regulation) Act, 1951, shall,

65 of 1951.

without the previous approval of the person specified by the Central Government in this behalf in respect of that undertaking (hereinafter referred to as the "authorised person"),—

(i) incur any expenditure from the assets appertaining to the textile undertaking otherwise than for the purpose of making routine payments of salaries or commissions to employees, agents or for the purpose of meeting the routine day to day expenditure ;

(ii) transfer or otherwise dispose of any such assets or create any charge, hypothecation, lien or other incumbrance thereon ;

(iii) invest in any manner any monies forming part of such assets ;

(iv) acquire any immovable property out of the monies forming part of such assets ;

(v) enter into any contract of service or agency, whether expressly or by implication, for purposes connected wholly or partly with the textile undertaking or vary the terms and conditions of any contract relating to any such transaction subsisting on the appointed day.

(3) The approval of the authorised person may be given either generally in relation to certain classes of transactions relating to the textile undertaking or specially in relation to any of its transactions.

Protection
of action
taken in
good faith.

12. (1) No suit, prosecution or other legal proceeding shall lie against the Custodian-General or any Custodian in respect of anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government, the Custodian-General or any Custodian for any damage caused, or likely to be caused, by anything which is in good faith done or intended to be done under this Act.

Delegation
of
powers.

13. (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act may also be exercised by any person or persons as may be specified in the notification.

(2) Whenever any delegation of power is made under subsection (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

Debts incurred for the purposes of textile undertaking to have priority.

14. Every debt arising out of any loan advanced to a sick textile undertaking by the Central Government or a State Government for carrying on the management of any sick textile undertaking specified in the First Schedule,—

(a) shall have priority over all other debts, whether secured or unsecured, incurred before the management of such textile undertaking was taken over under this Act;

(b) shall be a preferential debt within the meaning of section 530 of the Companies Act, 1956,

1 of 1956.

and such debts shall rank equally among themselves and be paid in full out of the assets of the sick textile undertaking unless such assets are insufficient to meet them, in which case they shall abate in equal proportions.

Penalties 15. If any person—

(a) Fails to deliver to the Custodian any assets, books of account, registers or any other documents in his custody relating to any sick textile undertaking, the management of which has vested in the Central Government, or

(b) retains any property of such sick textile undertaking or removes or destroys it, or

(c) fails to comply with the provisions of section 5, or

(d) fails to comply with any direction made under this Act, he shall be punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

16. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation— For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

17. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act,

Power
to make
rules.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before its House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.

18. (1) The Sick Textile Undertakings (Taking Over of Management) Ordinance, 1972, is hereby repealed.

Repeal
and
saving.

(2) Notwithstanding such repeal, anything done or any action taken, including any order issued, appointment made or direction given under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE FIRST SCHEDULE

(See section 4)

Sl. No.	Name and address of the sick textile undertaking	Name and address of the owner of the sick textile undertaking
(1)	(2)	(3)
1.	Adoni Cotton Mills, Alur Road, Adoni (Andra Pradesh).	Adoni Cotton Mills Limited, 22, Bell Building, Sir P.M. Road, Bombay-1.
2.	Anantapur Cotton Mills, Tadapatri (Andra Pradesh).	The Anantapur Cotton Mills Limited, Tadapatri (Andra Pradesh).
3.	Apollo Mills, N.M. Joshi Marg, Chinchpokli, Bombay-11.	Apollo Mills Limited, N.M. Joshi Marg, Chinchpokli, Bombay-11
4.	Arati Cotton Mills, Dassnagar, Howrah (West Bengal).	Arati Cotton Mills Limited, 29, Strand Road, Calcutta-I.
5.	Balarama Varma textile Mills, Shencottah (Tamil Nadu).	Balarama Varma Textiles Limited, Shencottah (Tamil Nadu).
6.	Bangasri Cotton Mills, Sodepore (West Bengal).	The Bangasri Cotton Mills Limited, Chandrachur Sadan, Sodepore, 24-Parganas (West Bengal).
7.	Bengal Fine Spinning and Weaving Mills, Mill No. 2, Kataganj, District Nadia (West Bengal).	Bengal Fine Spinning and Weaving Mills Limited, 7, Bipin Behari Ganguly Street, Calcutta.
8.	Bijli Cotton Mills, Mendu Road, Hathras (Uttar Pradesh).	The Bijli Cotton Mills (Private) Limited, Agra (Uttar Pradesh).
9.	Cannanore Spinning and Weaving Mills, Cannanore (Kerala).	The Cannanore Spinning and Weaving Mills Limited, Cannanore (Kerala).
10.	Dayalbagh Spinning and Weaving Mills, Amritsar.	Sir Sahabji Maharaj Mills Limited, Dayalbagh, Agra.
11.	Edward Mills, Beawar (Rajasthan).	The Edward Mills Company Limited, Beawar (Rajasthan).
12.	Edward textile Mills Ferguson Road, Lower Parel, Bombay.	Edward Textile Mills Limited, Indu House, Dougall Road, Ballard Estate, Bombay.

Sl. No.	Name and address of the sick textile undertaking	Name and address of the owner of the sick textile undertaking
(1)	(2)	(3)
13.	Fine Knitting Mills, near Chamundamata, Asarva Road Ahmedabad.	The Fine Knitting Company Limited, Asarva, near Chamundamata, Ahmedabad-16.
14.	Gaya Cotton and Jute Mills, Gaya (Bihar).	Gaya Cotton and Jute Mills Limited, Gaya (Bihar).
15.	Indore Malwa United Mills, Indore.	The Indore Malwa United Mills Limited, 139, Meadows Street, Fort, Bombay.
16.	Jayashankar Mills Barsi, Barsi, District Sholapur (Maharashtra).	The Jayashankar Mills Barsi Limited, Barsi, District sholapur (Maharashtra).
17.	Jyoti Weaving Eactory, 69, S.K. Dev Road, Calcutta-48.	Joyti Weaving Factory (Private) Limited, 69, S.K. Dev Road, Patipukur, Calcutta-48.
18.	Kaleeswarar Mills, A Unit, Coimbatore.	The Kaleeswarar Mills Limited, Coimbatore.
19.	Kaleeswarar Mills, B Unit, Kalaynarkoil (District Ramnad).	
20.	Kalyanmal Mills, 15, Silnath Camp, Indore.	Kalyanmal Mills Limited, 15, Silnath Camp, Indore.
21.	Kanoria Industries, (Cotton Mills Section), Konnagar (West Bengal).	Kanoria Industries Limited, 59, Getaji Subhas Road, Calcutta-1
22.	Kerala Lakshmi Mills, Trichur, Kerala State.	Kerala Lakshmi Mills Limited, Pullazhi, Trichur-4, Kerala State.
23.	Kharar Textile Mills, Kharar, near Chandigarh.	The Panipat Woollen and General Mills Company Limited, Kharar, near Chandigarh.
24.	Lord Krishna Textile Mills, Saharanpur (Uttar Pradesh.)	Lord Krishna Sugar Mills Limited, Chand Hotel, Chandni Chowk, Delhi.

Sl. No.	Name and address of the sick textile undertaking	Name and address of the owner of the sick textile undertaking
(1)	(2)	(3)
25.	Mahboob Shahi Kulbarga Mills, Gulbarga (Mysore).	Mahboob Shahi Kulbarga Mills Company Limited, Gulbarga (Mysore)
26.	New Kaiser-i- Hind Spinning and Weaving Mills, Gorupdeo Road, Chinchpokli, Bombay-33.	New Kaiser-i-Hindi Spining and Weaving Company Limited, Asoka Apartment, Altamount Road, Bombay.
27.	New Pratap Spinning, Weaving and Manufacturing Mills Dhulia, West Khandesh.	New Pratap Spinning, Weaving and Manufacturing Company Limited, Dhulia, West Khandesh.
28.	Orissa Cotton Mills, Bhagatpur, Cuttack.	Orisa Cotton Mills Limited, 41, Ironside Road, Calcutta-1.
29.	Osmanshahi Mills, Mill Road, Nanded (Maharasta).	Osmanshahi Mills Limited, Mill Road, Nanded (Maharashtra).
30.	Panipat Woollen Mills Kharar, near Chandigarh.	The Panipat Woollen and General Mills Company Limited, Kharar, near Chandigarh.
31.	Pankaja Mills, Coimbatore.	Pankaja Mills Limited, Coimbatore.
32.	Pioneer Spinners, Pioneernagar (Tamil Nadu).	Pioneer Spinners (Private) Limited, Pioneernagar (Tamil Nadu).
33.	Prabha Mills, Viramgam (Gujarat).	Prabha Mills Limited, Highway Rose Building 92, Ambawadi Dixit Road, Vile Parle, Bombay-57.
34.	R. B. Bansilal Abirchand Spinning and Weaving Mills, Hinghanghat (Maharashtra).	R. B. Bansilal Abirchand Spinning and Weaving Mills Company (Private) Limited, Hinghanghat (Maharashtra).
35.	Savatram Ramprasad Mills, Akola (Maharashtra).	Savatram Ramprasat Mills Company Limited, Akola (Maharashtra).
36.	Seksaria Cotton Mills, Delisle Road, Parel, Bombay.	Seksaria Cotton Mills Limited, Delisle Road, Parel, Bombay.
37.	Shree Bijay Cotton Mills, Bijainagar (Rajasthan).	Shree Bijay Cotton Mills Limited, Bijainagar Rajasthan).

Sl. No.	Name and address of the sick textile undertaking	Name and address of the owner of the sick textile undertaking
(1)	(2)	(3)
38.	Shri Vikram Cotton Mills, Talkatora, Lucknow.	Shri Vikram Cotton Mills Limited, Lucknow (Uttar Pradesh).
39.	Sodepur Cotton Mills, Sodepur (West Bengal).	Sodepur Cotton Mills Limited, Sodepur (West Bengal).
40.	Sree Yallamma Cotton, Woollen and Silk Mills, Yallamnagar (Tolahunaso Railway Station).	Sree Yallamma Cotton, Woollen and Silk Mills Company Limited, Davangere City (Mysore State).
41.	Sri Kothandram Spinning Mills, Madurai.	Sri Kothandram Spinning Mills (Private) Limited, Madurai.
42.	Sri Sarada Mills, Podanur (Tamil Nadu).	Sri Sarada Mills Limited, Podanur (Tamil Nadu).
43.	Suraj Textile Mills, Malout Mandi, Punjab.	Suraj Textile Mills Limited, Malout Mandi, Punjab.
44.	Tirupathi Cotton Mills, Renigunta (Andhra Pradesh).	Tirupathi Cotton Mills Limited, 8, Boag Road, T. Nagar, Madras-17.
45.	Vidarbha Mills (Berar) Ellichpur (Maharashtra)	Vidarbha Mills Berar Limited, Ellichpur (Maharashtra).
46.	Vijaymohini Mills, Trivandrum.	The Vijaymohini Mills Limited, Trivandrum.

THE SECOND SCHEDULE.

(See section 7)

- | | |
|-------------|---|
| 20 of 1946 | 1. The Industrial Employment (Standing Orders) Act, 1946. |
| 14 of 1947. | 2. The Industrial Disputes Act, 1947. |
| 11 of 1948. | 3. The Minimum Wages Act, 1948. |

THE LIMESTONE AND DOLOMITE MINES
LABOUR WELFARE FUND ACT, 1972

AN

ACT

to provide for the levy and collection of a cess on limestone and dolomite for the financing of activities to promote the welfare of persons employed in the limestone and dolomite mines.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Limestone and Dolomite Mines Labour Welfare Fund Act, 1972.

Short title
extend an
commence
ment.

(2) It extends to the whole of India.

(3) 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 States.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) “agent” and “owner” have the meanings respectively assigned to them in clauses (c) and (d) of sub-section (1) of section 2 of the Mines Act, 1952;

35 of 1952

(b) “factory” and “occupier” have the meanings respectively assigned to them in clauses (m) and (n) of section 2 of the Factories Act, 1948;

63 of 1948

(c) “manager” means the manager referred to in section 17 of the Mines Act, 1952;

35 of 1952

(d) a person is said to be employed in a limestone or dolomite mine,—

(1) if he is employed within the premises or in the vicinity of such mine by the owner, agent or manager of such mine or by a contractor or any other agency exclusively in any one or more of the following, namely:—

(i) any limestone or dolomite mining operation;

(ii) the operation, servicing, maintenance or repair of any machinery or any part thereof used in or about such mine;

(iii) the loading, unloading or despatch of limestone or dolomite or any other material connected with the mining of limestone or dolomite;

(iv) any work in any office, canteen or creche situate within the precincts of such mine;

(v) any welfare, health, sanitary or conservancy services or any watch and ward duties at any place situate within such premises or vicinity, not being a place occupied by any residential building; or

(2) if, in any such area as may be notified by the Central Government in the Official Gazette in this behalf, he is employed by the owner, agent or manager of such mine or by a contractor or any other agency exclusively in the loading, unloading or despatch of limestone or dolomite or any other material connected with the mining of limestone or dolomite;

(e) "prescribed" means prescribed by rules made under this Act.

Levy and collection of cess on limestone and dolomite.

3. With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and collected as a cess for the purposes of this Act on so much of limestone and dolomite produced in any mine—

(i) as is sold or otherwise disposed of to the occupier of any factory; or

(ii) as is used by the owner of such mine for any purpose in connection with the manufacture of cement, iron or steel,

a duty of excise, at such rate not exceeding one rupee per metric tonne of limestone or dolomite, as the case may be, as the Central Government may, from time to time, fix by notification in the Official Gazette.

Explanation.— Where the owner of any limestone or dolomite mine is also the occupier of any factory, then, for the purposes of clause (ii), all limestone or dolomite, as the case may be, produced in the mine and not sold or otherwise disposed of to the occupier of any other factory shall be deemed, unless the contrary is proved, to have been used by such owner for any purpose in connection with the manufacture of cement, iron or steel.

4. (1) Every duty of excise leviable under this Act on limestone or dolomite shall be payable— Payment of duty of excise.

(a) to the occupier of the factory, by the person by whom such limestone or dolomite is sold or otherwise disposed of to such occupier;

(b) to the Central Government, by the owner of the limestone or dolomite mine where the limestone or dolomite is used by such owner for any purpose in connection with the manufacture of cement, iron or steel,

within such period as may be prescribed.

(2) All amounts referred to in clause (a) of sub-section (1) shall be collected by the occupier of the factory in such manner, and paid by him to the Central Government within such period, as may be prescribed.

5. (1) An amount equivalent to the proceeds of the duty of excise levied under this Act, reduced by the cost of collection as determined by the Central Government, together with any income from investment of the said amount and any other moneys received by the Central Government for the purposes of this Act, shall, after due appropriation made by Parliament by law, be paid to the credit of a fund to be called the Limestone and Dolomite Labour Welfare Fund (hereinafter referred to as the Fund). Application of proceeds of duty of excise

(2) The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with measures which, in the opinion of that Government, are necessary or expedient to promote the welfare of persons employed in the limestone or dolomite mines; and in particular—

(a) to defray the cost of measures for the benefit of persons employed in the limestone or dolomite mines directed-towards—

(i) the improvement of public health and sanitation, the prevention of disease and the provision and improvement of medical facilities ;

(ii) the provision and improvement of water supplies and facilities for washing ;

(iii) the provision and improvement of educational facilities; and

(iv) the improvement of standards of living including housing and nutrition, the amelioration of social conditions and the provision of recreational facilities ;

(b) to grant loan or subsidy to a State Government, a local authority or the owner of a limestone or dolomite mine, in aid of any scheme approved by the Central Government for any purpose connected with the welfare of persons employed in limestone or dolomite mines ;

(c) to pay annually grants-in-aid to such of the owners of limestone or dolomite mines who provide to the satisfaction of the Central Government welfare facilities of the prescribed standard for the benefit of person employed in their mines; so however, that the amount payable as grants-in-aid to any such owner shall not exceed—

(i) the amount spent by him in the provision of welfare facilities as determined by the Central Government or any person specified by it in this behalf, or

(ii) such amount as may be prescribed, whichever is less ;

Provided that no grant-in aid shall be payable in respect of any welfare facilities provided by the owner of a limestone or dolomite mine where the amount spent thereon determined as aforesaid is less than the amount prescribed in this behalf ;

(d) to meet the allowances, if any, of the members of the Advisory Committees and the Central Advisory Committee constituted under sections 6 and 7 respectively and the salaries and allowances, if any, of persons appointed under section 8 ;

(e) any other expenditure which the Central Government may direct to be defrayed from the Fund.

Avisory
Commit-
tees.

(6) (1) The Central Government may constitute as many Advisory Committees as it thinks fit, but not exceeding one for each of the principal limestone or dolomite producing

States, to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it by that Government, including matters relating to the application of the Fund.

(2) Each Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner as may be prescribed:

Provided that each Advisory Committee shall include an equal number of members representing the Government, the owners of limestone and dolomite mines and the persons employed in the limestone and dolomite mines and that at least one number of each such Committee shall be a woman.

(3) The Chairman of each Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of all members of every Advisory Committee.

Central
Advisory
Commit-
tee.

7. (1) The Central Government may constitute a Central Advisory Committee to co-ordinate the work of the Advisory Committees constituted under section 6 and to advise the Central Government on any matter arising out of the administration of this Act.

(2) The Central Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner as may be prescribed;

Provided that the Central Advisory Committee shall include an equal number of members representing the Government, the owners of limestone and dolomite mines and the persons employed in the limestone and dolomite mines,

(3) The Chairman of the Central Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of all members of the Central Advisory Committee.

8. (1) The Central Government may appoint as many Inspectors, Welfare Administrators and such other officers and staff as it thinks necessary for the purposes of this Act.

Appoint-
ment of
Inspec-
tors, etc,
and their
Powers.

45 of 1860

(2) Every person so appointed shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

(3) Any Inspector or Welfare Administrator may,—

(a) with such assistance, if any, as he may think fit, enter at any reasonable time, any place which he considers it necessary to enter for carrying out the purposes of this Act;

(b) do within such place anything necessary for the proper discharge of his duties; and

(c) exercise such other powers as may be prescribed.

9. Notwithstanding anything contained in this Act, if the Central Government is satisfied that there is in force in any State or part thereof a law making adequate provision for the financing of activities to promote the welfare of persons employed in the limestone or dolomite mines, it may, by notification in the Official Gazette, direct that all or any of the provisions of this Act shall not apply or shall apply to such State or part thereof subject to such exceptions and modifications as may be specified in the notification.

Power of
Central
Govern-
ment of
exempt.

10. The Central Government shall, as soon as may be, after the end of each financial year cause to be published in the Official Gazette a report giving an account of its activities financed under this Act during the previous financial year, together with a statement of accounts.

Annual
report of
activities
financed
under the
Act.

11. If any occupier of a factory or any owner of a limestone or dolomite mine fails to pay any amount payable by him to the Central Government under section 4 within the period prescribed therefor under that section, such occupier or owner, as the case may be, shall be liable to pay simple interest at twelve per cent. per annum on the amount to be paid, from the date on which such payment is due till such amount is actually paid.

Interest
payable by
occupiers of
factories
and
owners of
mines.

12. If any duty of excise payable by the occupier of the factory or the owner of the limestone or dolomite mine to the Central Government under section 4 is not paid to that Government within the period prescribed thereunder, it shall be deemed to be in arrears and the authority prescribed in this behalf may after such inquiry as it deems fit, impose on the occupier of the factory or, as the case may be, on the owner of the limestone or dolomite mine a penalty not exceeding the amount of duty of excise in arrears.

Penalty
for non-
payment
of duty of
excise
within the
prescribed
period

Provided that before imposing any such penalty such occupier or such owner, as the case may be, shall be given a reasonable opportunity of being heard and, if after such hearing the said authority is satisfied that the default was for any good and sufficient reason no penalty shall be imposed under this section.

Recovery of amounts due under the Act. 13. Any amount due under this Act (including the interest or penalty, if any, payable under section 11 or section 12, as the case may be) from any occupier of a factory or any owner of a limestone or dolomite mine may be recovered by the Central Government in the same manner as an arrear of land revenue.

Penalty for evasion of duty of excise 14. (1) Whoever wilfully or intentionally evades or attempts to evade the payment of duty of excise payable by him to the Central Government under this Act, shall, on conviction, be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) No court shall take cognizance of an offence punishable under this section, save on a complaint made by or under the authority of the Central Government.

Offences by companies. 15. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director," in relation to a firm, means a partner in the firm.

Power
to
make
rules.

16. (1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

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

(a) the assessment and collection of the duty excise levied under this Act;

(b) the period within which the person selling or otherwise disposing of the limestone or dolomite to the occupier of the factory shall pay the duty of excise to such occupier;

(c) the period within which the owner of the limestone or dolomite mine shall pay the duty of excise to the Central Government ;

(d) the manner in which the occupier of the factory shall collect the duty of excise ;

(e) the period within which the occupier of the factory shall pay to the Central Government the duty of the excise collected by him ;

(f) the determination of the cost of collection of the duty of excise levied under this Act ;

(g) the manner in which the Fund may be applied for the measures specified in section 5 ;

(h) the conditions governing the grant of loan or subsidy under clause (b) of sub-section (2) of section 5 ;

(i) the standard of welfare facilities to be provided by owners of limestone or dolomite mines for the purposes of clause (c) of sub-section (2) of section 5 ;

(j) the determination of the amounts referred to in sub-clause (ii) of clause (c) of sub-section (2) of section 5 and in the proviso to that clause ;

(k) the composition of the Advisory Committees and the Central Advisory Committee constituted under sections 6 and 7 respectively, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them, and the manner in which the said Advisory Committees and the Central Advisory Committee shall conduct their business ;

(l) the recruitment, conditions of service and the duties of all persons appointed under section 8 ;

(m) the powers that may be exercised by an Inspector or a Welfare Administrator under section 8 ;

(n) the furnishing to the Central Government by the occupier of factories and the owners, agents or managers of limestone or dolomite mines, of such statistical and other information as may be required to be furnished from time to time by that Government ;

(o) the authority which may impose any penalty under section

(3) In making any rule under clause (b) or clause (n) of sub-section (2) the Central Government may direct that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE PAYMENT OF BONUS (AMENDMENT) Act, 1972

An

Act.

further to amend the Payment of Bonus Act, 1965.

Be it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. This Act may be called the Payment of Bonus (Amendment) Act, 1972. Short
title.

21 of 1965. 2. In the Payment of Bonus Act, 1965 (hereinafter referred to as the principal Act), section 10 shall be re-numbered as sub-section (1) thereof, and— Amend-
ment of
section 10.

(i) in sub-section (1) as so re-numbered, in the proviso, for the words “this section,” the words “this sub-section” shall be substituted ;

(ii) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely :—

“(2) Notwithstanding anything contained in sub-section (1), but subject to the provisions of section 8 and 13, every employer shall be bound to pay to every employee in respect of the accounting year commencing on any day in the year 1971 a minimum bonus which shall be eight and one-third

per cent. of the salary or wage earned by the employee during that accounting year or eighty rupees, whichever is higher, whether there are profits in that accounting year or not :

Provided that where such employee has not completed fifteen years of age at the beginning of that accounting year, the provisions of this sub-section shall have effect in relation to such employee as if for the words "eighty rupees," the words "fifty rupees" were substituted.'

Amend-
ment of
section 13.

3. To section 13 of the principal Act, the following proviso shall be added, namely :—

'Provided that in respect of the accounting year commencing on any day in the year 1971, the provisions of this section shall have effect as if for the words "forty rupees," "twenty-five rupees" and "four per cent.", the words "eighty rupees", "fifty rupees" and "eight and one-third per cent." respectively were substituted.'

Amend-
ment of
section 19

4. Section 19 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(i) in sub-section (1) as so re-numbered, for the words "All amounts", the words "Subject to the provisions of this section, all amounts" shall be substituted ;

(ii) after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely :—

'(2) Where the percentage of the salary or wage of an employee payable by way of bonus under this Act (including section 34) in the accounting year commencing on any day in the year 1971 is the same as that paid or payable by way of bonus under this Act (including section 34) to such employee in respect of the accounting year immediately preceding the aforesaid accounting year, the entire amount payable to such employee in the first mentioned accounting year shall be paid in cash within the time-limit specified in sub-section (1)

(3) Where the percentage of the salary or wage of an employee payable by way of bonus under this Act (including section 34) in the accounting year commencing on any day in the year 1971 is higher than that paid or payable by way of bonus under this Act (including section 34) to such

employee in respect of the accounting year immediately preceding the aforesaid accounting year, so much of the amount calculated with reference to the difference in such percentages shall be remitted by the employer to the authority maintaining the provident fund account of such employee for crediting the same in that account and the balance shall be paid in cash to the employee, within the time-limit specified in sub-section (1):

Provided that where any employee enters into the service of an employer only during the accounting year commencing on any day in the year 1971, then, for the purposes of this sub-section, the percentage of bonus payable to such employee in cash and that to be remitted for crediting in his provident fund account shall be the same as in the case of employees of that employer who were in his service in the accounting year immediately preceding the aforesaid accounting year.

(4) Notwithstanding anything contained in sub-sections (2) and (3), where the percentage of the salary or wage of an employee payable by way of bonus under this Act (including section 34) in respect of the accounting year commencing on any day in the year 1971 does not exceed the minimum bonus calculated in accordance with the provisions of sub-section (2) of section 10 or of the proviso to section 13, as the case may be, the entire amount shall be paid in cash.

(5) Where any employee has no provident fund account, the provisions of sub-sections (3) shall not apply to such employee and the amount payable to him by way of bonus under this Act (including section 34) shall be paid in accordance with the Provisions of sub-section (1).

(6) Where any employer remits any amount for crediting in the provident fund account of an employee under sub-section (3),—

(i) the employer shall be deemed to have discharged his liability to pay the balance amount of bonus to such employee; and

(ii) the amount so remitted shall be deemed to be a contribution made by such employee in his provident fund account notwithstanding the fact that such amount together with the contribution that is being made by such employee for crediting in his provident fund account exceeds the maximum permissible contribution, if any, that may be made by him for crediting in the said account.

Explanation.—For the purposes of sub-sections (3) and (6), the expression “provident fund account”, in relation to an employee, means the individual provident fund account of such employee maintained under the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948 and the schemes framed thereunder or the Employees’ Provident Funds and Family Pension Fund Act, 1952 and the schemes framed thereunder or under any other law for the time being in force or maintained by such authority as may be specified by the Central Government in this behalf by notification in the Official Gazette, as the case may be.

(7) The provisions of the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948 and the Employees’ Provident Funds and Family Pension Fund Act, 1952 shall, so far as may be, apply in relation to the remittances to be made by an employer under sub-section (3) as they apply in relation to the contributions to be made by such employer under the aforesaid Acts.’.

Repeal and Saving. 5. (1) The Payment of Bonus (Amendment) Ordinance; 8 of 1972. 1972 is hereby repealed

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act as if this Act had come into force on the 23rd September, 1972.

The above Bill has been passed by the Houses of Parliament

Chairman.

Dated the December, 1972

I assent to this Bill

President

Dated the December 1973.

Printed at the K.P. Press