

Repealed by Act 35 of 198, S. 5

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**भारत का राजपत्र**  
**The Gazette of India**

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 9] नई दिल्ली, शुक्रवार, मार्च 7, 1980/फाल्गुन 17, 1901

No. 9] NEW DELHI, FRIDAY, MARCH 7, 1980/PHALGUNA 17, 1901

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed  
as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

New Delhi, the 7th March, 1980/Phalguna 17, 1901 (Saka)

THE REQUISITIONING AND ACQUISITION OF IMMOV-  
ABLE PROPERTY (AMENDMENT) ORDINANCE, 1980

No. I OF 1980

Promulgated by the President in the Thirty-first Year of the  
Republic of India.

An Ordinance further to amend the Requisitioning and Acquisi-  
tion of Immovable Property Act, 1952.

WHEREAS Parliament is not in session and the President is satisfied  
that circumstances exist which render it necessary for him to take imme-  
diate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of  
article 123 of the Constitution, the President is pleased to promulgate the  
following Ordinance:—

1. (1) This Ordinance may be called the Requisitioning and Acquisition of Immovable Property (Amendment) Ordinance, 1980.

Short title and commencement.

(2) It shall come into force at once.

30 of 1952 2. In section 6 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (hereinafter referred to as the principal Act), in sub-section (1A), for the words "ten years", wherever they occur, the words "fifteen years" shall be substituted.

Amendment of section 6.

3. In section 8 of the principal Act, in sub-section (2A),—

Amendment of section 8.

(a) in clause (a), for sub-clause (ii), the following sub-clause shall be substituted, namely:—

"(ii) secondly with effect from the expiry of five years, and thirdly with effect from the expiry of ten years, from such commencement;"

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

"(ii) secondly with effect from the date of expiry of five years, and thirdly with effect from the date of expiry of ten years, from the date on which the revision made under sub-clause (i) takes effect;"

(c) for clause (c), the following clause shall be substituted, namely:—

"(c) in any other case,—

(i) first with effect from the date of expiry of five years from the date on which possession of such property has been surrendered or delivered to, or taken by, the competent authority under section 4, and

(ii) secondly with effect from the date of expiry of five years from the date on which the revision under sub-clause (i) takes effect."

N. SANJIVA REDDY,  
President.

R. V. S. PERI SASTRI,  
Secy. to the Govt. of India.



# भारत का राजपत्र The Gazette of India

असाधारण  
EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्रतिधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 24] नई दिल्ली, रविवार, अप्रैल 6, 1980/चैत्र 17, 1902

No. 24] NEW DELHI, SUNDAY, APRIL 6, 1980/CHAITRA 17, 1902

इस भाग में अलग पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

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MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

New Delhi, the 6th April, 1980/Chaitra 17, 1902 (Saka)

THE ESSENTIAL SERVICES MAINTENANCE (ASSAM)  
ORDINANCE, 1980

No. 2 of 1980

Promulgated by the President in the Thirty-first year of the Republic of India.

An Ordinance to provide for the maintenance of certain essential services and the normal life of the community in Assam.

WHEREAS by a Proclamation issued on the 12th day of December, 1979 by the President under article 356 of the Constitution, the powers of the Legislature of the State of Assam have been declared to be exercisable by or under the authority of Parliament;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Essential Services Maintenance (Assam) Ordinance, 1980.

(2) It extends to the whole of the State of Assam.

(185)

Short  
title,  
extent  
and com-  
mencement.

(3) It shall come into force at once.

Defini-  
tions.

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

(a) "appropriate Government" means—

(i) in relation to any service connected with matters relatable to any of the entries enumerated in List I in the Seventh Schedule to the Constitution, the Central Government;

(ii) in relation to any service connected with matters relatable to any of the entries enumerated in List II in the Seventh Schedule to the Constitution, the State Government of Assam; and

(iii) in relation to any service connected with matters relatable to any of the entries enumerated in List III in the Seventh Schedule to the Constitution, the Central Government and the State Government of Assam;

(b) "essential service" means,—

(i) any postal, telegraph or telephone service;

(ii) any railway service or any other transport service for the carriage of passengers or goods by land, water or air;

(iii) any service connected with the loading and unloading of goods;

(iv) any service connected with the operation or maintenance of aerodromes or with the operation, repair or maintenance of aircraft;

(v) any service connected with the clearance of goods or passengers through the customs or with the prevention of smuggling;

(vi) any service in any establishment of, or connected with, the armed forces of the Union or in any other establishments or installations connected with defence;

(vii) any service in any section of any industrial establishment or undertaking on the working of which the safety of such establishment or undertaking or the employees employed therein depends;

(viii) any service in, or in connection with, the working of any undertaking owned or controlled by the Government being an undertaking engaged in the purchase, procurement, storage, supply or distribution of foodgrains;

(ix) any service in any system of public conservancy or sanitation;

(x) any service in connection with or in relation to banking;

(xi) any service in any establishment or undertaking dealing with the production, supply and distribution of coal;

(xii) any service in any oilfield or refinery or in any establishment or undertaking dealing with the production, supply or distribution of petroleum and petroleum products;

(xiii) any service in connection with the affairs of the Union or the State of Assam not being a service specified in any of the foregoing sub-clauses;

(xiv) any other service connected with matters with respect to which Parliament or the Legislative Assembly of the State of Assam has power to make laws and which the Central Government or the Government of Assam, as the case may be, being of opinion that strikes therein would prejudicially affect the maintenance of any public utility service, the public safety or the maintenance of supplies and services necessary for the life of the community or would result in the infliction of grave hardship on the community, may, by notification in the Official Gazette, declare to be an essential service for the purposes of this Ordinance;

(c) "strike" means the cessation of work by a body of persons employed in any essential service acting in combination or a concerted refusal or a refusal under a common understanding of any number of persons who are or who have been so employed to continue to work or to accept employment, and includes—

(i) refusal to work overtime where such work is necessary for the maintenance of any essential service;

(ii) any other conduct which is likely to result in, or results in, cessation or substantial retardation of work in any essential service.

(2) Every notification issued under sub-clause (xiv) of clause (b) of sub-section (1) shall be laid before each House of Parliament immediately after it is made if it is in session and on the first day of the commencement of the next session of the House if it is not in session, and shall cease to operate at the expiration of forty days from the date of its being so laid or from the re-assembly of Parliament, as the case may be, unless before the expiration of that period a resolution approving the issue of the notification is passed by both Houses of Parliament.

*Explanation.*—Where the Houses of Parliament are summoned to re-assemble on different dates, the period of forty days shall be reckoned from the later of those dates.

(3) Any reference in this Ordinance to any law which is not in force in any area of the State of Assam and to any authority under such law shall, in relation to that area, be construed as a reference to the corresponding law in force in that area and to the corresponding authority under such corresponding law.

3. (1) If the appropriate Government is satisfied that in the public interest it is necessary or expedient so to do, it may, by general or special Order, prohibit strikes in the State of Assam in any essential service specified in the Order.

(2) An Order made under sub-section (1) shall be published in such manner as the appropriate Government considers best calculated to bring it to the notice of the persons affected by the Order.

Power to prohibit strikes in certain employments.

(3) An Order made under sub-section (1) shall be in force for six months only, but the appropriate Government may, by a like Order, extend it for any period not exceeding six months if it is satisfied that in the public interest it is necessary or expedient so to do.

(4) Upon the issue of an Order under sub-section (1), —

(a) no person employed in any essential service to which the Order relates shall go or remain on strike;

(b) any strike declared or commenced, whether before or after the issue of the Order, by persons employed in any such service shall be illegal.

Dismissal  
of emp-  
loyees  
participa-  
ting in  
illegal  
strikes.

4. Any person who commences a strike which is illegal under this Ordinance, or goes or remains on, or otherwise takes part in, any such strike, shall be liable to disciplinary action (including dismissal) in accordance with the same provisions as are applicable for the purpose of taking such disciplinary action (including dismissal) on any other ground under the terms and conditions of service applicable to him in relation to his employment.

Penalty  
for  
illegal  
strikes.

5. Any person who commences a strike which is illegal under this Ordinance, or goes or remains on, or otherwise takes part in, any such strike shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty  
for insti-  
gation,  
etc.

6. Any person who instigates or incites other persons to take part in, or otherwise acts in furtherance of, a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

Penalty  
for  
giving  
financial  
aid to  
illegal  
strikes.

7. Any person who knowingly expends or supplies any money in furtherance or support of a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

Power to  
arrest  
without  
warrant.

8. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any police officer may arrest without warrant any person who is reasonably suspected of having committed any offence under this Ordinance.

Offences  
to be tried  
summarily.

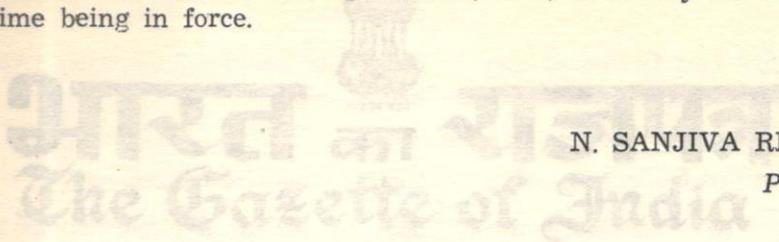
9. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Ordinance shall be tried in a summary way by a Judicial Magistrate of the first class specially empowered in this behalf by the appropriate Government and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial:

Provided that in a case of conviction for any offence in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for any term for which such offence is punishable under this Ordinance.

14 of 1947.

10. The provisions of this Ordinance and of any Order issued there-  
under shall have effect notwithstanding anything inconsistent therewith  
contained in the Industrial Disputes Act, 1947, or in any other law for  
the time being in force.

Ordinance  
to over-  
ride other  
laws.



N. SANJIVA REDDY,  
President.

EXTRAORDINARY R. V. S. PERI SASTRI,  
Secy. to the Govt. of India.

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 28] नई दिल्ली, बुधवार को 26, 1950 ई. व 27, 1950  
No. 28] NEW DELHI, THURSDAY, APRIL 26, 1950 CHAITRA 26, 1950

इस भाग में दिए गए कानून की नकल के लिए इस भाग में एक अलग संकलन के रूप में एक अलग नकल दी गई है।  
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as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

New Delhi, the 15th April, 1950 (Date)

THE BANKING COMPANIES ACQUISITION AND TRANS-  
FER OF UNDERTAKINGS ORDINANCE, 1950

No. 2 of 1950

Promulgated by the President in the Thirty-first Year of the  
Republic of India.

An Ordinance to provide for the acquisition and transfer of the  
undertakings of certain banking companies, having regard to  
their size, resources, coverage and organisation, in order fur-  
ther to control the heights of the economy, to meet progres-  
sively and equitably the needs of the development of the  
economy and to promote the welfare of the people, in con-  
formity with the policy of the State, in pursuance of the  
principles laid down in clauses (b) and (c) of article 39 of the  
Constitution and for matters connected therewith or incidental  
thereto.

Whereas Parliament is not in session and the President is satisfied that  
circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of



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असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 26] नई दिल्ली, मंगलवार, अप्रैल 15, 1980/चैत्र 26, 1902

No. 26] NEW DELHI, TUESDAY, APRIL 15, 1980/CHAITRA 26, 1902

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
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MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

New Delhi, the 15th April, 1980/Chaitra 26, 1902 (Saka)

THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ORDINANCE, 1980

No. 3 OF 1980

Promulgated by the President in the Thirty-first Year of the Republic of India.

An Ordinance to provide for the acquisition and transfer of the undertakings of certain banking companies, having regard to their size, resources, coverage and organisation, in order further to control the heights of the economy, to meet progressively, and serve better, the needs of the development of the economy and to prompt the welfare of the people, in conformity with the policy of the State towards securing the principles laid down in clauses (b) and (c) of article 39 of the Constitution and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

## CHAPTER I

## PRELIMINARY

Short  
title and  
commen-  
cement.  
Defini-  
tions.

1. (1) This Ordinance may be called the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1980.

(2) It shall come into force at once.

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

(a) "banking company" does not include a foreign company within the meaning of section 591 of the Companies Act, 1956;

1 of 1956.

(b) "corresponding new bank", in relation to an existing bank, means the body corporate specified against such bank in column 2 of the First Schedule;

(c) "Custodian" means the person who becomes, or is appointed, a Custodian under section 7;

(d) "existing bank" means a banking company specified in column 1 of the First Schedule, being a company the total of the demand and time liabilities in India of which, as shown in the return as on the 14th day of March, 1980, furnished to the Reserve Bank under section 42 of the Reserve Bank of India Act, 1934 amounts to not less than rupees two hundred crores;

2 of 1934.

(e) words and expressions used herein and not defined but defined in the Banking Regulation Act, 1949, have the meanings respectively assigned to them in that Act.

10 of 1949.

## CHAPTER II

## TRANSFER OF THE UNDERTAKINGS OF EXISTING BANKS

Establish-  
ment of  
corres-  
ponding  
new banks  
and busi-  
ness  
thereof.

3. (1) On the commencement of this Ordinance, there shall be constituted such corresponding new banks as are specified in column 2 of the First Schedule.

(2) The paid-up capital of every corresponding new bank constituted under sub-section (1) shall, until any provision is made in this behalf in any scheme made under section 9, be equal to the paid-up capital of the existing bank in relation to which it is the corresponding new bank.

(3) The entire capital of each corresponding new bank shall stand vested in, and allotted to, the Central Government.

(4) Every corresponding new bank shall be a body corporate with perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, and to contract, and may sue and be sued in its name.

(5) Every corresponding new bank shall carry on and transact the business of banking as defined in clause (b) of section 5 of the Banking Regulation Act, 1949, and may engage in one or more forms of business specified in sub-section (1) of section 6 of that Act.

10 of 1949.

(6) Every corresponding new bank shall establish a reserve fund to which shall be transferred the share premiums and the balance, if any, standing to the credit of the reserve fund of the existing bank in relation to which it is the corresponding new bank, and such further sums, if any, as may be transferred in accordance with the provisions of section 17 of the Banking Regulation Act, 1949.

10 of 1949.

4. On the commencement of this Ordinance, the undertaking of every existing bank shall be transferred to, and shall vest in, the corresponding new bank,

Under-taking of existing banks to vest in corresponding new banks.

5. (1) The undertaking of each existing bank shall be deemed to include all assets, rights, powers, authorities and privileges and all property, movable 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 commencement of this Ordinance in the ownership, possession, power or control of the existing bank in relation to the undertaking, whether within or without India, and all books of accounts, registers, 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 existing bank in relation to the undertaking.

General effect of vesting.

(2) If, according to the laws of any country outside India, the provisions of this Ordinance by themselves are not effective to transfer or vest any asset or liability situated in that country which forms part of the undertaking of an existing bank to, or in, the corresponding new bank, the affairs of the existing bank in relation to such asset or liability shall, on and from the commencement of this Ordinance, stand entrusted to the chief executive officer for the time being of the corresponding new bank, and the chief executive officer may exercise all powers and do all such acts and things as may be exercised or done by the existing bank for the purpose of effectively transferring such assets and discharging such liabilities.

(3) The chief executive officer of the corresponding new bank shall, in exercise of the powers conferred on him by sub-section (2), take all such steps as may be required by the laws of any such country outside India for the purpose of effecting such transfer or vesting, and may either himself or through any person authorised by him in this behalf realise any asset and discharge any liability of the existing bank.

(4) Unless otherwise expressly provided by this Ordinance, 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 commencement of this Ordinance and to which the existing bank is a party or which are in favour of the existing bank shall be of as full force and effect against or in favour of the corresponding new bank, and may be enforced or acted upon as fully and effectually as if in the place of the existing bank the corresponding new bank had been a party thereto or as if they had been issued in favour of the corresponding new bank.

(5) If, immediately before the commencement of this Ordinance, any suit, appeal or other proceeding of whatever nature in relation to any business of the undertaking which has been transferred under section 4. is pending by or against the existing bank, the same shall not abate, be discontinued or be in any way, prejudicially affected by reason of the transfer of the undertaking of the existing bank or of anything contained in this Ordinance but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the corresponding new bank.

(6) Nothing in this Ordinance shall be construed as applying to the assets, rights, powers, authorities and privileges and property, movable and immovable, cash balances and investments in any country outside India (and other rights and interests in, or arising out of, such property) and borrowings, liabilities and obligations of whatever kind subsisting immediately before the commencement of this Ordinance, of any existing bank operating in that country if, under the laws in force in that country, it is not permissible for a banking company, owned or controlled by Government, to carry on the business of banking there.

### CHAPTER III

#### PAYMENT OF AMOUNT

Payment  
of  
amount.

6. (1) Every existing bank shall be given by the Central Government such amount in respect of the transfer, under section 4, to the corresponding new bank of the undertaking of the existing bank as is specified against each such bank in the Second Schedule.

(2) The amount referred to in sub-section (1) shall be given to every existing bank, at its option,—

(a) in cash (to be paid by cheque drawn on the Reserve Bank) in three equal annual instalments, the amount of each instalment carrying interest at the rate of five and a half per cent. per annum from the commencement of this Ordinance, or

(b) in saleable or otherwise transferable promissory notes or stock certificates of the Central Government issued and repayable at par, and maturing at the end of—

(i) ten years from the commencement of this Ordinance and carrying interest from such commencement at the rate of six per cent. per annum, or

(ii) thirty years from the commencement of this Ordinance and carrying interest from such commencement at the rate of seven per cent. per annum, or

(c) partly in cash (to be paid by cheque drawn on the Reserve Bank) and partly in such number of securities specified in sub-clause (i) or sub-clause (ii), or both, of clause (b), as may be required by the existing bank, or

(d) partly in such number of securities specified in sub-clause (i) of clause (b) and partly in such number of securities specified in sub-clause (ii) of that clause, as may be required by the existing bank.

(3) The first of the three equal annual instalments referred to in clause (a) of sub-section (2) shall be paid, and the securities referred to in clause (b) of that sub-section shall be issued, within sixty days from the date of receipt by the Central Government of the option referred to in that sub-section, or where no such option has been exercised, from the latest date before which such option ought to have been exercised.

(4) The option referred to in sub-section (2) shall be exercised by every existing bank before the expiry of a period of three months from the commencement of this Ordinance (or within such further time, not exceeding three months, as the Central Government may, on the application of the existing bank, allow)

and the option so exercised shall be final and shall not be altered or rescinded after it has been exercised.

(5) Any existing bank which omits or fails to exercise the option referred to in sub-section (2), within the time specified in sub-section (4), shall be deemed to have opted for payment in securities specified in sub-clause (i) of clause (b) of sub-section (2).

(6) Notwithstanding anything contained in this section, any existing bank may, before the expiry of three months from the commencement of this Ordinance (or within such further time, not exceeding three months, as the Central Government may, on the application of the existing bank allow) make an application in writing to the Central Government for an interim payment of an amount equal to seventy-five per cent. of the amount of the paid-up capital of such bank, immediately before the commencement of this Ordinance, indicating therein whether the payment is desired in cash or in securities specified in sub-section (2), or in both.

(7) The Central Government shall, within sixty days from the receipt of the application referred to in sub-section (6), make the interim payment to the existing bank in accordance with the option indicated in such application.

(8) The interim payment made to an existing bank under sub-section (7) shall be set off against the total amount payable to such existing bank under this Ordinance and the balance of the amount remaining outstanding after such payment shall be given to the existing bank in accordance with the option exercised, or deemed to have been exercised, under sub-section (4) or sub-section (5), as the case may be:

Provided that where any part of the interim payment is obtained by an existing bank in cash, the payment so obtained shall be set off, in the first instance, against the first instalment of the cash payment referred to in sub-section (2), and in case the payment so obtained exceeds the amount of the first instalment, the excess amount shall be adjusted against the second instalment and the balance of such excess amount, if any, against the third instalment of the cash payment.

#### CHAPTER IV

##### MANAGEMENT OF CORRESPONDING NEW BANKS

7. (1) The head office of each corresponding new bank shall be at such place as the Central Government may, by notification in the Official Gazette, specify in this behalf, and, until any such place is so specified, shall be at such place at which the head office of the existing bank, in relation to which it is the corresponding new bank, is on the commencement of this Ordinance, located. Head office and management.

(2) The general superintendence, direction and management of the affairs and business of a corresponding new bank shall vest in a Board of Directors which shall be entitled to exercise all such powers and do all such acts and things as the corresponding new bank is authorised to exercise and do.

(3) (a) As soon as may be after the commencement of this Ordinance, the Central Government shall, in consultation with the Reserve Bank, constitute the first Board of Directors of a corresponding new bank, consisting of not more than seven persons, to be appointed by the Central Government, and every director so appointed shall hold office until the Board of Directors of such corresponding new bank is constituted in accordance with the scheme made under section 9:

Provided that the Central Government may, if it is of opinion that it is necessary in the interests of the corresponding new bank so to do, remove a person from the membership of the first Board of Directors and appoint any other person in his place.

(b) Every member of the first Board of Directors (not being an officer of the Central Government or of the Reserve Bank) shall receive such remuneration as is equal to the remuneration which a member of the Board of Directors of the existing bank was entitled to receive immediately before the commencement of this Ordinance.

(4) Until the first Board of Directors is appointed by the Central Government under sub-section (3), the general superintendence, direction and management of the affairs and business of a corresponding new bank shall vest in a Custodian, who shall be the chief executive officer of that bank and may exercise all powers and do all acts and things as may be exercised or done by that bank.

(5) The Chairman of an existing bank holding office as such immediately before the commencement of this Ordinance, shall be the Custodian of the corresponding new bank and shall receive the same emoluments as he was receiving immediately before such commencement:

Provided that the Central Government may, if the Chairman of an existing bank declines to become, or to continue to function as, a Custodian of the corresponding new bank, or, if it is of opinion that it is necessary in the interests of the corresponding new bank so to do, appoint any other person as the Custodian of a corresponding new bank and the Custodian so appointed shall receive such emoluments as the Central Government may specify in this behalf.

*Explanation.*—In this sub-section and in sub-section (1) of section 12, the expression "Chairman", in relation to any existing bank, includes the person carrying out the duties of the Chairman or otherwise functioning as the chief executive officer of that bank.

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

Corresponding new banks to be guided by the directions of the Central Government.

8. Every corresponding new bank shall, in the discharge of its functions, be guided by such directions in regard to matters of policy involving public interest as the Central Government may, after consultation with the Governor of the Reserve Bank, give.

Power of Central Government to make scheme.

9. (1) The Central Government may, after consultation with the Reserve Bank, make a scheme for carrying out the provisions of this Ordinance.

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

(a) the capital structure of the corresponding new bank, so however that the paid-up capital of any such bank shall not be in excess of rupees fifteen crores;

(b) the constitution of the Board of Directors, by whatever name called, of the corresponding new bank and all such matters in connection therewith or incidental thereto as the Central Government may consider to be necessary or expedient;

(c) the reconstitution of any corresponding new bank into two or more corporations, the amalgamation of any corresponding new bank with any other corresponding new bank or with another banking institution, the transfer of the whole or any part of the undertaking of a corresponding new bank to any other banking institution or the transfer of the whole or any part of the undertaking of any other banking institution to a corresponding new bank;

(d) such incidental, consequential and supplemental matters as may be necessary to carry out the provisions of this Ordinance.

(3) Every Board of Directors of a corresponding new bank, constituted under any scheme made under sub-section (1), shall include—

(a) representatives of the employees, and of depositors, of such bank, and

(b) such other persons as may represent the interests of each of the following categories, namely, farmers, workers and artisans,

to be elected or nominated in such manner as may be specified in the scheme.

(4) The Central Government may, after consultation with the Reserve Bank, make a scheme to amend or vary any scheme made under sub-section (1).

(5) Every scheme made by the Central Government under this Ordinance 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 scheme or both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be 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 scheme.

## CHAPTER V

### MISCELLANEOUS

10. (1) Every corresponding new bank shall cause its books to be closed and balanced on the 31st day of December of each year and shall appoint, with the previous approval of the Reserve Bank, auditors for the audit of its accounts.

(2) Every auditor of a corresponding new bank shall be a person who is qualified to act as an auditor of a company under section 226 of the Companies Act, 1956 and shall receive such remuneration as the Reserve Bank may fix in consultation with the Central Government.

(3) Every auditor shall be supplied with a copy of the annual balance-sheet and profit and loss account and a list of all books kept by the corresponding new bank, and it shall be the duty of the auditor to examine the balance-sheet and profit and loss account with the accounts and vouchers relating thereto, and in the performance of his duties, the auditor—

Closure  
of ac-  
counts  
and dis-  
posal of  
profits.

(a) shall have, at all reasonable times, access to the books, accounts and other documents of the corresponding new bank,

(b) may, at the expense of the corresponding new bank, employ accountants or other persons to assist him in investigating such accounts, and

(c) may, in relation to such accounts, examine the Custodian or any officer or employee of the corresponding new bank.

(4) Every auditor of a corresponding new bank shall make a report to the Central Government upon the annual balance-sheet and accounts and in every such report shall state—

(a) whether, in his opinion, the balance-sheet is a full and fair balance-sheet containing all the necessary particulars and is properly drawn up so as to exhibit a true and fair view of the affairs of the corresponding new bank, and in case he had called for any explanation or information, whether it has been given and whether it is satisfactory;

(b) whether or not the transactions of the corresponding new bank, which have come to his notice, have been within the powers of that bank;

(c) whether or not the returns received from the offices and branches of the corresponding new bank have been found adequate for the purpose of his audit;

(d) whether the profit and loss account shows a true balance of profit or loss for the period covered by such account; and

(e) any other matter which he considers should be brought to the notice of the Central Government.

(5) The report of the auditor shall be verified, signed and transmitted to the Central Government.

(6) The auditor shall also forward a copy of the audit report to the corresponding new bank and to the Reserve Bank.

(7) After making provision for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds and all other matters for which provision is necessary under any law, or which are usually provided for by banking companies, a corresponding new bank shall transfer the balance of profits to the Central Government.

(8) The Central Government shall cause every auditor's report and report on the working and activities of each corresponding new bank to be laid for not less than thirty days before each House of Parliament as soon as may be after each such report is received by the Central Government.

11. For the purposes of the Income-tax Act, 1961, every corresponding new bank shall be deemed to be an Indian company and a company in which the public are substantially interested.

Corresponding new bank deemed to be an Indian company.

Vacation of office of Chairman, etc.

12. (1) Every person holding office, immediately before the commencement of this Ordinance, as Chairman of an existing bank shall, if he becomes Custodian of the corresponding new bank, be deemed, on such commencement, to have vacated office as such Chairman.

(2) Save as otherwise provided in sub-section (1), every officer or other employee of an existing bank shall become, on the commencement of this Ordinance, an officer or other employee, as the case may be, of the corresponding new bank and shall hold his office or service in that bank 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 existing bank had not been transferred to and vested in the corresponding new bank and continue to do so unless and until his employment in the corresponding new bank is terminated or until his remuneration, terms or conditions are duly altered by the corresponding new bank.

(3) For the persons who immediately before the commencement of this Ordinance were the trustees for any pension, provident, gratuity or other like fund constituted for the officers or other employees of an existing bank, there shall be substituted as trustees such persons as the Central Government may, by general or special order, specify.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other employee from an existing bank to a corresponding new bank shall not entitle such officer or other employee to any compensation under this Ordinance or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

13. (1) Every corresponding new bank shall observe, except as otherwise required by law, the practices and usages customary among bankers, and, in particular, it shall not divulge any information relating to or to the affairs of its constituents except in circumstances in which it is, in accordance with law or practices and usages customary among bankers, necessary or appropriate for the corresponding new bank to divulge such information.

Obligations as to fidelity and secrecy.

(2) Every director, member of a local board or a committee, or auditor, adviser, officer or other employee of a corresponding new bank shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Third Schedule.

(3) Every Custodian of a corresponding new bank shall, as soon as possible, make a declaration of fidelity and secrecy in the form set out in the Third Schedule.

14. Every Custodian of a corresponding new bank shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code.

Custodian to be public servant.

15. (1) All acts done by the Custodian, acting in good faith, shall, notwithstanding any defect in his appointment or in the procedure, be valid.

Certain defects not to invalidate acts or proceedings.

(2) No act or proceeding of any Board of Directors or a local board or committee of a corresponding new bank shall be invalid merely on the ground of the existence of any vacancy in, or defect in the constitution of, such board or committee, as the case may be.

(3) All acts done by a person acting in good faith as a director or member of a local board or committee of a corresponding new bank shall be valid, notwithstanding that it may afterwards be discovered that his appointment was invalid by reason of any defect or disqualification or had terminated by virtue of any provision contained in any law for the time being in force;

Provided that nothing in this section shall be deemed to give validity to any act by a director or member of a local board or committee of a corresponding new bank after his appointment has been shown to the corresponding new bank to be invalid or to have terminated.

Indem-  
nity.

16. (1) Every Custodian of a corresponding new bank and every officer of the Central Government or of the Reserve Bank and every officer or other employee of a corresponding new bank, shall be indemnified by such bank against all losses and expenses incurred by him in or in relation to the discharge of his duties except such as have been caused by his own wilful act or default.

(2) A director or member of a local board or committee of a corresponding new bank shall not be responsible for any loss or expense caused to such bank by the insufficiency or deficiency of the value of, or title to any property or security acquired or taken on behalf of the corresponding new bank, or by the insolvency or wrongful act of any customer or debtor, or by anything done in or in relation to the execution of the duties of his office, unless such loss, expense, insufficiency or deficiency was due to any wilful act or default on the part of such director or member.

Construc-  
tion of  
references  
to existing  
banks.

17. Any reference to any existing bank in any law, other than this Ordinance, or in any contract or other instrument shall, in so far as it relates to the undertaking which has been transferred by section 4, be construed as a reference to the corresponding new bank.

Dissolu-  
tion.

18. No provision of law relating to winding up of corporations shall apply to a corresponding new bank and no corresponding new bank shall be placed in liquidation save by order of the Central Government and in such manner as it may direct.

Power to  
make  
regula-  
tions.

19. (1) The Board of Directors of a corresponding new bank may, after consultation with the Reserve Bank and with the previous sanction of the Central Government, make regulations, not inconsistent with the provisions of this Ordinance or any scheme made thereunder, to provide for all matters for which provision is expedient for the purpose of giving effect to the provisions of this Ordinance.

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

(a) the powers, functions and duties of local boards and restrictions, conditions or limitations, if any, subject to which they may be exercised or performed, the formation and constitution of local committees and committees of local boards (including the number of members of any such committee), the powers, functions and duties of such committees, the holding of meetings of local committees and committees of local boards and the conduct of business thereat;

(b) the manner in which the business of the local boards shall be transacted and the procedure in connection therewith;

(c) the delegation of powers and functions of the board of directors of a corresponding new bank to the general manager, director, officer or other employee of that bank;

(d) the conditions or limitations subject to which the corresponding new bank may appoint advisers, officers or other employees and fix their remuneration and other terms and conditions of service;

(e) the duties and conduct of advisers, officers or other employees of the corresponding new bank;

(f) the establishment and maintenance of superannuation, pension, provident or other funds for the benefit of officers or other employees of the corresponding new bank or of the dependants of such officers or other employees and the granting of superannuation allowances, annuities and pensions payable out of such funds;

(g) the conduct and defence of legal proceedings by or against the corresponding new bank and the manner of signing pleadings;

(h) the provision of a seal for the corresponding new bank and the manner and effect of its use;

(i) the form and manner in which contracts binding on the corresponding new bank may be executed;

(j) the conditions and the requirements subject to which loans or advances may be made or bills may be discounted or purchased by the corresponding new bank;

(k) the persons or authorities who shall administer any pension, provident or other fund constituted for the benefit of officers or other employees of the corresponding new bank or their dependants;

(l) the preparation and submission of statements of programmes of activities and financial statements of the corresponding new bank and the period for which and the time within which such statements and estimates are to be prepared and submitted; and

(m) generally for the efficient conduct of the affairs of the corresponding new bank.

(3) Until any regulation is made under sub-section (1), the articles of association of the existing bank and every regulation, rule, bye-law or order made by the existing bank in force immediately before the commencement of this Ordinance shall be deemed to be the regulations made under sub-section (1) and shall have effect accordingly and any reference therein to any authority of the existing bank shall be deemed to be a reference to the corresponding authority of the corresponding new bank and until any such corresponding authority is constituted under this Ordinance, shall be deemed to refer to the Custodian.

20. (1) In the Banking Regulation Act, 1949,—

(a) in section 34A, in sub-section (3), for the words "and any subsidiary bank", the words, figures and brackets "a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1980, and any subsidiary bank" shall be substituted;

(b) in section 36AD, in sub-section (3), for the words "and any subsidiary bank", the words, figures and brackets "a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1980, and any subsidiary bank" shall be substituted;

Amendment of certain enactments.

(c) in section 51, for the words "or any other banking institution notified by the Central Government in this behalf", the words, figures and brackets "or any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1980, or any other banking institution notified by the Central Government in this behalf" shall be substituted.

(2) In the Industrial Disputes Act, 1947, in section 2, in clause (bb), for the words "and any subsidiary bank", the words, figures and brackets "a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1980, and any subsidiary bank" shall be substituted. 14 of 1947.

(3) In the Banking Companies (Legal Practitioners' Clients' Accounts) Act, 1949, in section 2, in clause (a), for the words "and any subsidiary bank", the words, figures, and brackets "a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1980, and any subsidiary bank" shall be substituted. 46 of 1949.

(4) In the Deposit Insurance and Credit Guarantee Corporation Act, 1961, in section 2, in clause (ee), after the figures "1970", the words, figures and brackets "or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1980" shall be inserted. 47 of 1961.

(5) In the State Agricultural Credit Corporations Act, 1968, in section 2, in clause (ii), after the figures "1970", the words, figures and brackets "or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1980" shall be inserted. 60 of 1968.

#### THE FIRST SCHEDULE

(See sections 2, 3 and 4)

Existing bank	Corresponding new bank
Column 1	Column 2
The Andhra Bank Limited	Andhra Bank
Corporation Bank Limited	Corporation Bank
The New Bank of India Limited	New Bank of India
The Oriental Bank of Commerce Limited	Oriental Bank of Commerce
The Punjab and Sind Bank Limited	Punjab and Sind Bank
Vijaya Bank Limited	Vijaya Bank

## THE SECOND SCHEDULE

(See section 6)

Name of existing bank	Amount
	(in lakhs of rupees)
The Andhra Bank Limited ..	610
Corporation Bank Limited ..	180
The New Bank of India Limited ..	510
The Oriental Bank of Commerce Limited ..	100
The Punjab and Sind Bank Limited ..	210
Vijaya Bank Limited ..	240

## THE THIRD SCHEDULE

[See sub-sections (2) and (3) of section 13]

## DECLARATION OF FIDELITY AND SECRECY

I, \_\_\_\_\_, do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as Custodian, Director, member of Local Board, member of Local Committee, auditor, adviser, officer or other employee (as the case may be) of the\* and which properly relate to the office or position in the said\* held by me.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the\*

or to the affairs of any person having any dealing with the\* ; nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the\* and relating to the business of the\* or to the business of any person having any dealing with the\*

\*Name of corresponding new bank to be filled in.

N. SANJIVA-REDDY,  
President.

R. V. S. PERI SASTRI,  
Secy. to the Govt. of India.



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती हैं जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 27th April, 1980/Vaisakha 7, 1902 (Saka)

THE NATIONAL COMPANY LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ORDINANCE, 1980

No. 4 OF 1980

Promulgated by the President in the Thirty-first Year of the Republic of India.

An Ordinance to provide for the acquisition and transfer of the undertakings of Messrs. National Company Limited with a view to securing the proper management of such undertakings so as to subserve the interests of the general public by ensuring the continued manufacture, production and distribution of articles made of jute, which are essential to the needs of the economy of the country and for matters connected therewith or incidental thereto.

WHEREAS Messrs. National Company Limited had been engaged in the manufacture and production of articles mentioned in the First Schedule to the Industries (Development and Regulation) Act, 1951, namely, textiles made wholly or in part of jute;

AND WHEREAS the management of the undertakings of Messrs. National Company Limited was taken over by the Central Government under section 18AA of the Industries (Development and Regulation) Act, 1951;

AND WHEREAS it is necessary to acquire the undertakings of Messrs. National Company Limited to ensure that the interests of the general public are served by the continuance, by the undertakings of the Company, of the manufacture, production and distribution of the aforesaid articles, which are essential to the needs of the economy of the country;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

## CHAPTER I

### PRELIMINARY

Short title and commencement.

1. (1) This Ordinance may be called the National Company Limited (Acquisition and Transfer of Undertakings) Ordinance, 1980.

(2) It shall come into force at once.

Definitions.

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

(a) "appointed day" means the date of commencement of this Ordinance;

(b) "Commissioner" means the Commissioner of Payments appointed under section 15;

(c) "Company" means Messrs. National Company Limited, a company within the meaning of the Companies Act, 1956, and having its registered office at 18A-Brabourne Road, Calcutta-700001, in the State of West Bengal; 1 of 1956.

(d) "existing Government company" means a Government company which is carrying on business on the appointed day;

(e) "new Government company" means a Government company formed and registered on or after the appointed day;

(f) "notification" means a notification published in the Official Gazette;

(g) "prescribed" means prescribed by rules made under this Ordinance;

(h) "specified date", in relation to any provision of this Ordinance, means such date as the Central Government may, by notification, specify for the purposes of that provision and different dates may be specified for different provisions of this Ordinance;

(i) words and expressions used herein and not defined but defined in the Companies Act, 1956, have the meanings respectively assigned to them in that Act. 1 of 1956.

## CHAPTER II

## ACQUISITION AND TRANSFER OF UNDERTAKINGS OF THE COMPANY

3. On the appointed day, the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings shall, by virtue of this Ordinance, stand transferred to, and vest in, the Central Government.

Transfer to, and vesting in, the Central Government of undertakings of the Company.

4. (1) The undertakings of the Company shall be deemed to include all assets, rights, leaseholds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, reserve funds, investments, book debts, 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 Company, whether within or outside India, and all books of account, registers and other documents of whatever nature relating thereto.

General effect of vesting.

(2) All properties as aforesaid which have vested in the Central Government under section 3, shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting them, and any attachment, injunction, decree or order of any court or other authority restricting the use of such properties in any manner or appointing any receiver in respect of the whole or any part of such properties shall be deemed to have been withdrawn.

(3) Every mortgagee of any property which has been vested under this Ordinance in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(4) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (3) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amounts specified in section 8 and also out of the amounts determined under section 9, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(5) Any licence or other instrument granted to the Company in relation to any undertaking which has vested in the Central Government under section 3 at any time before the appointed day and in force immediately before the appointed day shall continue to be in force on and after such day in accordance with its tenor in relation to and for the purposes of such undertaking, and on and from the date of vesting of such undertaking, under section 5, in an existing Government company, or under section 6, in a new Government company, the existing

or new Government company, as the case may be, shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to such existing or new Government company and such existing or new Government company shall hold it for the remainder of the period for which the Company would have held it under the terms thereof.

(6) If, on the appointed day, any suit, appeal or other proceeding, of whatever nature, in relation to any property which has vested in the Central Government under section 3, instituted or preferred by or against the Company, is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of the Company, or of anything contained in this Ordinance, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government or where the undertakings of the Company are directed under section 5 to vest in an existing Government company or become transferred by virtue of the provisions of section 6 to a new Government company, by or against such Government company.

Power of Central Government to direct vesting of the undertakings of the Company in an existing Government company.

5. (1) Notwithstanding anything contained in sections 3 and 4, and subject to the provisions of section 6, the Central Government may, if it is satisfied that an existing Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by notification, that the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in that existing Government company either on the date of publication of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(2) Where the right, title and interest of the Company in relation to its undertakings vest, under sub-section (1), in an existing Government company, that Government company shall, on and from the date of such vesting be deemed to have become, and until the transfer of the undertakings by virtue of the provisions of section 6, to a new Government company, be deemed to be, the owner in relation to such undertakings and the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting be deemed to have become, and until the date of such transfer, be deemed to be, the rights and liabilities, respectively, of that existing Government company.

Transfer of undertakings of the Company from an existing Government company to a new Government company.

6. (1) Notwithstanding anything contained in sections 3 and 4, where the undertakings of the Company have been directed, under sub-section (1) of section 5, to vest in an existing Government company, the Central Government may, if it is satisfied that a new Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, declare, by notification, that the undertakings of the Company be transferred to that new Government company; and on the issue of such declaration, the right, title and interest of the Company in relation to its undertakings, which had been directed under sub-section (1) of section 5 to vest in an existing Government company, shall, instead of continuing to vest in that existing

Government company, vest in that new Government company with effect from the date on which such declaration is made.

(2) Where the right, title and interest of the existing Government company in relation to the undertakings of the Company vest under sub-section (1) in a new Government company, that new Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings and the rights and liabilities of the existing Government company in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of that new Government company.

7. (1) Every liability of the Company in respect of any period prior to the appointed day, shall be the liability of the Company and shall be enforceable against it, and not against the Central Government, or where the undertakings of the Company vest in an existing or a new Government company, against such Government company.

Company to be liable for certain prior liabilities.

(2) For the removal of doubts, it is hereby declared that—

(a) save as otherwise expressly provided in this Ordinance, no liability of the Company in relation to its undertakings, in respect of any period prior to the appointed day, shall be enforceable against the Central Government, or where the undertakings of the Company vest in an existing or a new Government company, against such Government company;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of the Company, passed after the appointed day in respect of any matter, claim or dispute, which arose before that day, shall be enforceable against the Central Government or where the undertakings of the Company vest in an existing or a new Government company, against such Government company;

(c) no liability incurred by the Company before the appointed day for the contravention of any provision of law for the time being in force shall be enforceable against the Central Government or where the undertakings of the Company vest in an existing or a new Government company, against such Government company.

### CHAPTER III

#### PAYMENT OF AMOUNT

8. (1) For the transfer to, and vesting in, the Central Government, under section 3, of the undertakings of the Company, and the right, title and interest of the Company in relation to such undertakings, there shall be given by the Central Government to the Company in cash and in the manner specified in Chapter VI, an amount of rupees ten crores and four lakhs.

Payment of amount.

(2) For the removal of doubts, it is hereby declared that the liabilities of the Company, in relation to its undertakings, shall be met, in accordance with the rights and interests of the creditors of the Company, from the amount due to the Company under sub-section (1).

Payment  
of further  
amount.

9. (1) For the deprivation of the Company of the management of the undertakings owned by it, there shall be given, by the Central Government, to the Company, in addition to the amount specified in section 8, an amount computed at the rate of ten thousand rupees per annum for the period commencing from the date on which the management of the undertakings of the Company was taken over in pursuance of the Order made by the Central Government under section 18AA of the Industries (Development and Regulation) Act, 1951, and ending on the appointed day. 65 of 1951.

(2) The amount specified in section 8 and the amount computed in accordance with the provisions of sub-section (1) shall carry simple interest at the rate of four per cent. per annum for the period commencing on the appointed day and ending on the date on which the payment of the amount is made by the Central Government to the Commissioner.

(3) The amounts determined in accordance with the provisions of sub-sections (1) and (2) shall be given to the Company in addition to the amount specified in section 8.

#### CHAPTER IV

##### MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE COMPANY

Manage-  
ment,  
etc., of  
the  
undertak-  
ings of  
the  
Company.

10. (1) The general superintendence, direction, control and management of the affairs and business of the undertakings owned by the Company, the right, title and interest in relation to which have vested in the Central Government under section 3, shall—

(a) where a direction has been made by the Central Government under sub-section (1) of section 5, vest, on and from the date specified in such direction, in the existing Government company specified therein; or

(b) where a declaration has been made under sub-section (1) of section 6, vest, on and from the date of such declaration, in the new Government company specified therein; or

(c) where no direction referred to in clause (a) or declaration referred to in clause (b) has been made, vest, on and from the appointed day, in one or more Custodians appointed by the Central Government under sub-section (2),

and thereupon the existing or new Government company or the Custodian or Custodians so appointed, as the case may be, shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the Company is authorised to exercise and do in relation to the undertakings owned by it.

(2) The Central Government may appoint one or more individuals or a Government Company as the Custodian or Custodians of the undertakings of the Company in relation to which no direction has been made by it under sub-section (1) of section 5 or no declaration has been made under sub-section (1) of section 6, and the Custodian or Custodians so appointed shall receive, from the funds of the undertakings, such remuneration as may be specified by the Central Government.

1 of 1956.

(3) The Custodian or Custodians of the undertakings of the Company shall maintain an account of the undertakings of the Company in such form and manner and under such conditions as may be prescribed, and the provisions of the Companies Act, 1956, shall apply to the audit of the accounts so maintained as they apply to the audit of the accounts of a company.

11. (1) On the vesting of the management of the undertakings of the Company in an existing, or a new, Government company or on the appointment of a Custodian or Custodians, all persons in charge of the management of the undertakings of the Company immediately before such vesting or appointment shall be bound to deliver to such Government company, or Custodian or Custodians, as the case may be, all assets, books of account, registers and other documents in their custody relating to the undertakings of the Company.

Duty of persons in charge of management of the undertakings to deliver all assets, etc.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the existing, or new, Government company or the Custodian or Custodians, and such Government company, Custodian or Custodians may also, if it is considered necessary so to do, apply to the Central Government at any time for instructions as to the manner in which the management of the undertakings of the Company shall be conducted or in relation to any other matter arising in the course of such management.

12. (1) Any person who has, on the appointed day, in his possession or under his control, any assets, books, documents or other papers relating to any undertaking owned by the Company, which has vested in the Central Government or in an existing, or a new, Government company under this Ordinance, and which belongs to the Company, or would have so belonged, if the undertakings owned by the Company had not vested in the Central Government or such Government company, shall be liable to account for the said assets, books, documents and other papers to the Central Government or the Government company and shall deliver them up to the Central Government or such Government company or to such person or body of persons as the Central Government or the Government company may specify in this behalf.

Duty of persons to account for assets etc., in their possession.

(2) The Central Government may take or cause to be taken all necessary steps for securing possession of the undertakings of the Company which have vested in it under section 3.

(3) The Company shall within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all its property and assets, as on the appointed day, pertaining to the undertakings which have vested in the Central Government under section 3, and, for this purpose, the Central Government or the existing, or new, Government company shall afford to the Company all reasonable facilities.

## CHAPTER V

### PROVISION RELATING TO EMPLOYEES OF THE COMPANY

13. (1) Every employee of the Company in connection with any undertaking owned by it, shall become, on and from the appointed day, an employee of the Central Government, and where such undertaking

Continuance of employees.

is vested in an existing or a new Government company under this Ordinance, become, on and from the date of such vesting in such Government company, an employee thereof and shall hold office or service under the Central Government or the existing or new Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the existing or new Government company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government or the existing or new Government company, as the case may be.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed in any undertakings owned by the Company, to the Central Government or the existing or new Government company shall not entitle such officer or other employee to any compensation under this Ordinance or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

14 of 1947.

Provident  
fund and  
other  
funds.

14. (1) Where the Company has established a provident fund, superannuation fund, welfare fund or other fund for the benefit of persons employed in any of the undertakings owned by it, the monies relatable to the employees, whose services have become transferred by or under this Ordinance to the Central Government or existing or new Government company shall, out of the monies standing, on the appointed day, to the credit of such provident fund, superannuation fund, welfare fund or other funds, stand transferred to and vest in, the Central Government or the Government company, as the case may be.

(2) The monies which stand transferred under sub-section (1) to the Central Government or the existing, or new, Government company, as the case may be, shall be dealt with by that Government or Government company in such manner as may be prescribed.

## CHAPTER VI

### COMMISSIONER OF PAYMENTS

Appoint-  
ment of  
Com-  
missioner  
of Pay-  
ments.

15. (1) The Central Government shall, for the purpose of disbursing the amount payable under sections 8 and 9 to the Company, by notification, appoint a Commissioner of Payments.

(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Ordinance and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Ordinance and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

16. (1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the Company,—

Payment by the Central Government to the Commissioner.

(a) an amount equal to that specified in section 8;

(b) further amount equal to the amount payable to the Company under section 9.

(2) A deposit account shall be opened by the Central Government in favour of the Commissioner in the Public Account of India, and every amount paid under this Ordinance to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(3) Records shall be maintained by the Commissioner in respect of the undertakings of the Company in relation to which payment has been made to him under this Ordinance.

(4) Interest accruing on the amounts standing to the credit of the deposit account referred to in sub-section (2) shall enure to the benefit of the Company.

17. (1) The Central Government or the existing, or new, Government company, as the case may be, shall be entitled to receive, up to the specified date, to the exclusion of all other persons, any money due to the Company in relation to any of the undertakings owned by it, which have vested in the Central Government or such Government company, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

Certain powers of the Central Government or Government company.

(2) The Central Government or the existing, or new, Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by that Government or Government company, after the appointed day, for discharging any liability of the Company in respect of any of the undertakings owned by it, in relation to any period prior to the appointed day, and every such claim shall have priority, in accordance with the priorities attaching under this Ordinance, to the matter in relation to which such liability has been discharged by the Central Government or the Government company.

(3) Save as otherwise provided in this Ordinance, the liabilities of the Company in relation to any of the undertakings owned by it, in respect of any transaction prior to the appointed day, which have not been discharged on or before the specified date, shall be the liabilities of the Company.

18. Every person having a claim against the Company with regard to any of the matters specified in the Schedule, pertaining to any undertaking owned by it, shall prefer such claim before the Commissioner within thirty days from the specified date:

Claims to be made to the Commissioner.

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days, but not thereafter.

Priority  
of claims.

19. The claims made under section 18 shall have priorities in accordance with the following principles, namely:—

(a) Category I shall have precedence over all other categories and Category II shall have precedence over Category III and so on;

(b) the claims specified in each of the categories shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly; and

(c) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

Examina-  
tion of  
claims.

20. (1) On receipt of the claims made under section 18, the Commissioner shall arrange the claims in the order of priorities specified in the Schedule and examine the same in accordance with such order.

(2) If on an examination of the claims, the Commissioner is of opinion that the amount paid to him under this Ordinance is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine any claim in respect of such lower category.

Admission  
or rejection  
of  
claims.

21. (1) After examining the claims with reference to the priorities set out in the Schedule, the Commissioner shall fix a date on or before which such claimant shall file the proof of his claim.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of any daily newspaper in the English language having circulation in the major part of the country and one issue of any daily newspaper in such regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the period specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the period specified by the Commissioner shall be excluded from the disbursement made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, by order in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he may hold his sitting and shall, for the purpose of making any investigation under this Ordinance, have the same powers as are vested in a civil court under the Code of Civil Procedure, 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 object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

(7) A claimant who is dissatisfied with the decision of the Commissioner may prefer an appeal against such decision to the High Court within the local limits of whose jurisdiction the registered office of the Company is situated:

Provided that where a person, who is a Judge of a High Court is appointed to be the Commissioner, such appeal shall be heard and disposed of by not less than two Judges of that High Court.

22. After admitting a claim under this Ordinance, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such amount is due and on such payment, the liability of the Company in respect of any claim relating to the undertakings owned by it shall stand discharged.

Disbursement of money by the Commissioner.

23. (1) If out of the monies paid to him in relation to any undertaking owned by the Company there is a balance left after meeting the liabilities as specified in the Schedule, the Commissioner shall disburse such balance to the Company.

Disbursement of amounts to the Company.

(2) Where the possession of any machinery, equipment or other property has vested in the Central Government or any existing, or new, Government company under this Ordinance but such machinery, equipment or other property does not belong to the Company, it shall be lawful for the Central Government or, as the case may be, the existing, or new, Government company, to continue to possess such machinery or equipment or other property on the same terms and conditions under which they were possessed by the Company, immediately before the appointed day.

24. Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be transferred by the Commissioner, before his office is finally wound up, to the Central Revenue Account of the Central Government; but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, and the order, if any, for payment of the claim being treated as an order for the refund of revenue.

Undisbursed or unclaimed amount to be deposited with the general revenue account.

## CHAPTER VII

## MISCELLANEOUS

Ordinance to have over-riding effect.

25. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Ordinance, or in any decree or order of any court, tribunal or other authority.

Assumption of liability.

26. (1) Where any liability of the Company arising out of any item specified in Part I of the Schedule is not discharged fully by the Commissioner out of the amount paid to him under this Ordinance, the Commissioner shall intimate in writing to the Central Government the extent of the liability which remains undischarged and that liability shall be assumed by the Central Government.

(2) The Central Government may, by order, direct the existing, or new, Government company in which the undertakings of the Company become vested by virtue of any direction made under sub-section (1) of section 5 or declaration made under sub-section (1) of section 6, to take over the liability assumed by the Central Government under sub-section (1), and on receipt of such direction, it shall be the duty of such existing, or new, Government company to discharge such liability.

Management to continue to vest in the Custodian until alternative arrangements have been made.

27. Notwithstanding the vesting under this Ordinance of the undertakings of the Company in the Central Government or an existing, or new, Government company,—

(a) the Custodian who has been managing the affairs of such undertaking before the date on which the undertaking had so vested shall, until alternative arrangements have been made by the Central Government or, as the case may be, such Government company, for the management of such undertakings, continue to manage the affairs of the undertakings, as if the Custodian had been authorised by the Central Government, or, as the case may be, such Government company, to manage such undertakings;

(b) the Custodian or any person authorised by him for this purpose shall, until alternative arrangements have been made by the Central Government or, as the case may be, such Government company, continue to be authorised to operate, in relation to the undertakings of the Company, any account of such undertakings in any bank as if the Custodian or the person authorised by him had been authorised by the Central Government or such Government company to operate such account.

Contracts to cease to have effect unless ratified by the Central Government or the Government company.

28. Every contract entered into by the Company in relation to any of the undertakings owned by it, which has vested in the Central Government under section 3, for any service, sale or supply and in force immediately before the appointed day, shall, on and from the expiry of a period of one hundred and eighty days from the appointed day, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government or the existing, or new, Government company in which such undertakings have been vested under this Ordinance, and in ratifying such contract, the Central Government or such Government company may make such alteration or modification therein as it may think fit:

Provided that the Central Government or such Government company shall not omit to ratify a contract and shall not make any alteration or modification in a contract—

(a) unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of, the Central Government or such Government company, and

(b) except after giving the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

29. Any person who,—

Penalties.

(a) having in his possession, custody or control any property forming part of the undertakings owned by the Company, wrongfully withholds such property from the Central Government or the Government company; or

(b) wrongfully obtains possession of, or retains, any property forming part of, the undertakings owned by the Company; or

(c) wilfully withholds or fails to furnish to the Central Government or the existing, or new, Government company or any person or body of persons specified by that Government or such Government company, as the case may be, any document relating to the undertakings owned by the Company, which may be in his possession, custody or control; or

(d) fails to deliver to the Central Government or the existing, or new, Government company or any person or body of persons specified by that Government or Government company, any assets, books of account, registers or other documents in his possession, custody or control relating to the undertakings owned by the Company; or

(e) wrongfully removes or destroys any property forming part of the undertakings owned by the Company or prefers any claim under this Ordinance which he knows or has reason to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years and also with fine which may extend to ten thousand rupees.

30. (1) Where an offence punishable under this Ordinance 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:

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 Ordinance has been committed by a company and it is proved that the offence had 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.

Protec-  
tion of  
action  
taken in  
good  
faith.

31. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of that Government or the existing, or new, Government company in which the undertakings of the Company have vested under this Ordinance or other person authorised by that Government or Government company for anything which is in good faith done or intended to be done under this Ordinance.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees or the existing, or new, Government company aforesaid or any officer or other person authorised by that 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 Ordinance.

Delega-  
tion of  
powers.

32. (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Ordinance, other than the powers conferred by this section and sections 33 and 34, may also be exercised by such person or persons as may be specified in the notification.

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

Power to  
make  
rules.

33. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Ordinance.

(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 time within which, and the manner in which, an intimation referred to in sub-section (3) of section 4 shall be given;

(b) the form and manner in which, and the conditions under which accounts shall be maintained by the Custodian or Custodians as required by sub-section (3) of section 10;

(c) the manner in which the monies in any provident fund or other fund, referred to in sub-section (2) of section 14, shall be dealt with;

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

(3) Every rule made by the Central Government under this Ordinance 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 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.

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

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

## THE SCHEDULE

(See sections 18, 19, 20, 21 and 26)

### ORDER OF PRIORITIES

#### Part I

##### Category I

Employees' dues on account of unpaid salaries, wages, provident fund, Employees' State Insurance contribution or premium relating to Life Insurance Corporation of India in respect of any period whether before or after the management of the undertaking of the Company had been taken over by the Central Government.

##### Category II

Secured loans obtained by the Company from nationalised banks and public financial institutions during any period whether before or after the management of the undertaking of the Company had been taken over by the Central Government.

##### Category III

Amounts due to trade and other creditors in relation to any transaction which took place during the post-take-over management period.

## Part II

**Category IV**

Revenue, taxes, cesses, rates or other dues to the Central Government, State Government and local authorities or State Electricity Board for the pre-take-over management period.

**Category V**

Amounts due to trade and other creditors in relation to any transaction which took place during the pre-take-over management period.

**N. SANJIVA REDDY,**

*President.*

**R. V. S. PERI SASTRI,**

*Secy. to the Govt. of India.*



# भारत का राजपत्र The Gazette of India

असाधारण  
EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

New Delhi, the 1st May, 1980/Vaisakha 11, 1902 (Saka)

THE POLICE (INCITEMENT TO DISAFFECTION) (GUJARAT SECOND AMENDMENT) ORDINANCE, 1980

No. 5 OF 1980

Promulgated by the President in the Thirty-first Year of the Republic of India.

An Ordinance further to amend the Police (Incitement to Disaffection) Act, 1922, in its application to the State of Gujarat.

WHEREAS by a Proclamation issued on the 17th day of February, 1980 by the President under article 356 of the Constitution, the powers of the Legislature of the State of Gujarat have been declared to be exercisable by or under the authority of Parliament;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Police (Incitement to Disaffection) (Gujarat Second Amendment) Ordinance, 1980.

(2) It extends to the whole of the State of Gujarat.

Short title, extent and commencement.

(3) It shall come into force at once.

Act 22 of 1922 to be temporarily amended.

2. During the period of operation of this Ordinance, the Police (Incitement to Disaffection) Act, 1922, in its application to the State of Gujarat (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

Insertion of new section 8.

3. In the principal Act, after section 7, the following section shall be inserted, namely:—

Offences to be cognizable and non-bailable.

“8. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act shall be cognizable and non-bailable.”

N. SANJIVA REDDY,  
President.

R. V. S. PERI SASTRI,  
Secy. to the Govt. of India.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

New Delhi, the 1st May, 1980 (Vaisakha 11, 1980) (Saka)

THE POLICE (INCITEMENT TO DISAFFECTION) (GUJARAT SECOND AMENDMENT) ORDINANCE, 1980

No. 2 of 1980

Promulgated by the President in the Thirty-first Year of the Republic of India.

An Ordinance further to amend the Police (Incitement to Disaffection) Act, 1922, in its application to the State of Gujarat.

WHEREAS by a Proclamation issued on the 17th day of February, 1980 by the President under article 356 of the Constitution, the powers of the Legislature of the State of Gujarat have been declared to be exercisable by or under the authority of Parliament;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 133 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Police (Incitement to Disaffection) (Gujarat Second Amendment) Ordinance, 1980.

Short title, extent and commencement.



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असाधारण

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PART II—Section 1

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Separate paging is given to this Part in order that it may be filed as a separate compilation

## MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (Legislative Department)

New Delhi, the 12th May, 1980/Vaisakha 22, 1902 (Saka)

### THE ESSENTIAL SERVICES MAINTENANCE (MAHARASHTRA) ORDINANCE, 1980

No. 6 OF 1980

Promulgated by the President in the Thirty-first Year of the Republic of India.

An Ordinance to provide for the maintenance of certain essential services and the normal life of the community in Maharashtra.

WHEREAS by a Proclamation issued on the 17th day of February, 1980, by the President under article 356 of the Constitution, the powers of the Legislature of the State of Maharashtra have been declared to be exercisable by or under the authority of Parliament;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Essential Services Maintenance (Maharashtra) Ordinance, 1980.

Short title, extent and commencement.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force at once.

Defini-  
tions.

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

(a) “essential service” means—

(i) any transport service for the carriage of passengers or goods, by land or water, with respect to which the State Legislature of Maharashtra has power to make laws;

(ii) any service connected with the production, generation, storage, transmission, supply or distribution, as the case may be, of gas, water or electricity;

(iii) any service connected with the maintenance of public health and sanitation, including hospitals and dispensaries;

(iv) any public services and posts in connection with the affairs of the State, and also persons appointed to the secretarial staff of the Houses of the State Legislature and the officers and servants of the High Court for the State;

(v) any other service or employment or class thereof, connected with matters with respect to which the State Legislature of Maharashtra has power to make laws and which the State Government of Maharashtra being of opinion that strikes in such service, employment, or class thereof, would prejudicially affect the maintenance of any public utility service, the public safety or the maintenance of supplies and services necessary for the life of the community or would result in the infliction of grave hardship on the community, may, by notification in the *official Gazette*, declare to be an essential service for the purposes of this Ordinance;

(b) “strike” means the cessation of work by a body of persons employed in any essential service acting in combination or a concerted refusal or a refusal under a common understanding of any number of persons who are or who have been so employed to continue to work or to accept employment, and includes—

(i) failure to attend at, or absence from, the place of work on any working day or during any working hours, without obtaining the necessary permission therefor of the authority competent to grant such permission;

(ii) refusal to work overtime where such work is necessary for the maintenance of any essential service;

(iii) any other conduct which is likely to result in, or results in, cessation or substantial retardation of work in any essential service.

(2) Every notification issued under sub-clause (v) of clause (a) of sub-section (1) shall be laid before each House of the Legislature of the State of Maharashtra immediately after it is made if it is in session and on the first day of the commencement of the next session of the House

if it is not in session, and shall cease to operate at the expiration of forty days from the date of its being so laid or from the re-assembly of the Legislature, as the case may be, unless before the expiration of that period, a resolution approving the issue of the notification is passed by both Houses of the Legislature.

*Explanation.*—Where the Houses of the Legislature are summoned to re-assemble on different dates, the period of forty days shall be reckoned from the later of those dates.

(3) Where any notification under this section ceases to operate, the cesser shall be without prejudice to anything done or omitted to be done before such cesser.

3. (1) If the State Government of Maharashtra is satisfied that in the public interest it is necessary or expedient so to do, it may, by general or special Order, prohibit strikes in any essential service specified in the Order.

Power to prohibit strikes in certain employments.

(2) An Order made under sub-section (1) shall be published in such manner as the State Government considers best calculated to bring it to the notice of the persons affected by the Order.

(3) An Order made under sub-section (1) shall be in force for six months only, but the State Government may, by a like Order, extend it for any period not exceeding six months if it is satisfied that in the public interest it is necessary or expedient so to do.

(4) Upon the issue of an Order under sub-section (1),—

(a) no person employed in any essential service to which the Order relates shall go or remain on strike;

(b) any strike declared or commenced, whether before or after the issue of the Order, by persons employed in any such service shall be illegal.

(5) Any Order made under this section may at any time be rescinded by the State Government by a like Order, but such rescission shall not affect the previous operation of anything duly done or suffered thereunder, and shall not affect any obligation or liability accrued or incurred, or any penalty or punishment incurred in respect of any offence committed against this Ordinance before such rescission.

(6) No Order under sub-section (1) or sub-section (3) or sub-section (5) shall be made in respect of—

(a) persons appointed to the secretarial staff of the Houses of the State Legislature, except at the request of the Chairman of the Legislative Council and the Speaker of the Legislative Assembly;

(b) officers and servants of the High Court, except at the request of the Chief Justice of the High Court.

4. Any person who commences a strike which is illegal under this Ordinance, or goes or remains on, or otherwise takes part in, any such strike shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Penalty for illegal strikes.

Penalty  
for  
instiga-  
tion, etc.

5. Any person who instigates, or incites other persons to take part in, or otherwise acts in furtherance of, a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, and any vehicle or other conveyance which is used by such person while committing such offence, shall, if having regard to all the circumstances the Court considers it just and proper so to order, be forfeited to the State Government.

Penalty  
for  
giving  
finan-  
cial aid  
to ille-  
gal  
strikes.

6. Any person who knowingly expends or supplies any money in furtherance or support of a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Sections  
4 to 6 in  
addi-  
tion to  
disci-  
plinary  
action.

7. Any action taken under section 4, section 5 or section 6 shall not affect, and shall be in addition to, any action of a disciplinary nature or any consequence which may ensue, and to which any person may be liable by the terms and conditions of his service or employment.

Power  
to arrest  
without  
warrant  
and to  
seize vehi-  
cles.

8. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any police officer may arrest without warrant any person who is reasonably suspected of having committed any offence under this Ordinance, and may seize any vehicle or other conveyance, which is used by any person who is reasonably suspected of having committed an offence under section 5.

2 of 1974

Provi-  
sions of  
section  
102 of  
Act  
2 of 1974  
to apply  
to seiz-  
ure.

9. The provisions of section 102 of the Code of Criminal Procedure, 1973, relating to seizure shall, so far as may be, apply in relation to every seizure made under section 8.

Offen-  
ces  
under  
the Ordi-  
nance to  
be non-  
bail-  
able.

10. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Ordinance shall be non-bailable.

2 of 1974

Ordi-  
nance to  
over-  
ride  
other  
laws.

11. The provisions of this Ordinance and of any Order issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Bombay Industrial Relations Act, 1946, the Industrial Disputes Act, 1947, or in any other law for the time being in force.

Bom. XI

of 1947.

14 of 1947

N. SANJIVA REDDY,  
President.

R. V. S. PERI SASTRI,  
Secy. to the Govt. of India.



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 30]

नई दिल्ली, सोमवार, मई 12, 1980/वैसाख 22, 1902

No. 30]

NEW DELHI, MONDAY, MAY 12, 1980/VAISAKHA 22, 1902

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।  
Separate paging is given to this Part in order that it may be filed  
as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

New Delhi, the 12th May, 1980/Vaisakha 22, 1902 (Saka)

THE GUJARAT ESSENTIAL SERVICES MAINTENANCE  
(AMENDMENT) ORDINANCE, 1980

No. 7 of 1980

Promulgated by the President in the Thirty-first Year of the  
Republic of India.

An Ordinance further to amend the Gujarat Essential Services  
Maintenance Act, 1972.

WHEREAS by a Proclamation issued on the 17th day of February, 1980,  
by the President under article 356 of the Constitution, the powers of the  
Legislature of the State of Gujarat have been declared to be exercisable  
by or under the authority of Parliament;

AND WHEREAS Parliament is not in session and the President is satis-  
fied that circumstances exist which render it necessary for him to take  
immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1)  
of article 123 of the Constitution and of all other powers enabling him

in that behalf, the President is pleased to promulgate the following Ordinance:—

- Short title and commencement. 1. (1) This Ordinance may be called the Gujarat Essential Services Maintenance (Amendment) Ordinance, 1980.
- (2) It shall come into force at once.
- Gujarat Act 23 of 1972 to be temporarily amended. 2. During the period of operation of this Ordinance, the Gujarat Essential Services Maintenance Act, 1972 (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.
- Substitution of new section for section 9. 3. In the principal Act, for section 9, the following section shall be substituted, namely:—
- Act to override other laws. "9. The provisions of this Act and of any Order issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Bombay Industrial Relations Act, 1946, the Industrial Disputes Act, 1947, or in any other law for the time being in force."

Bom. XI  
of 1947.  
14 of 1947.

N. SANJIVA REDDY,  
*President.*

R. V. S. PERI SASTRI,  
*Secy. to the Govt. of India,*

Promulgated by the President in the Thirtieth Year of the  
Republic of India.

An Ordinance further to amend the Gujarat Essential Services  
Maintenance Act, 1972.

WHEREAS by a Proclamation issued on the 17th day of February, 1980  
by the President under article 359 of the Constitution the powers of the  
Legislature of the State of Gujarat have been declared to be exercisable  
by or under the authority of Parliament;

AND WHEREAS Parliament is not in session and the President is satis-  
fied that circumstances exist which render it necessary for him to take  
immediate action;

NOW THEREFORE in exercise of the powers conferred by clause (1)  
of article 123 of the Constitution and of all other powers enabling him



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असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 31]

नई दिल्ली, शनिवार, मई 24, 1980/ज्यैष्ठ 3, 1902

No. 31]

NEW DELHI, SATURDAY, MAY 24, 1980/JYAISTHA 3, 1902

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed  
as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

*New Delhi, the 24th May, 1980/Jyaistha 3, 1902 (Saka)*

THE ESSENTIAL SERVICES MAINTENANCE (ORISSA)  
ORDINANCE, 1980

No. 8 OF 1980

Promulgated by the President in the Thirty-first Year of the  
Republic of India.

An Ordinance to provide for the maintenance of certain essential  
services and the normal life of the community in Orissa.

WHEREAS by a Proclamation issued on the 17th day of February, 1980,  
by the President under article 356 of the Constitution, the powers of the  
Legislature of the State of Orissa have been declared to be exercisable by  
or under the authority of Parliament;

AND WHEREAS Parliament is not in session and the President is satisfied  
that circumstances exist which render it necessary for him to take imme-  
diate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1)  
of article 123 of the Constitution and of all other powers enabling him in  
that behalf, the President is pleased to promulgate the following Ordi-  
nance:—

Short  
title,  
extent  
and com-  
mence-  
ment.

1. (1) This Ordinance may be called the Essential Services Maintenance (Orissa) Ordinance, 1980.

(2) It extends to the whole of the State of Orissa

(3) It shall come into force at once.

Defini-  
tions.

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

(a) "essential service" means—

(i) any service connected with the supply or distribution of water and with the maintenance of water works;

(ii) any service connected with hospitals and dispensaries;

(iii) any service connected with the production, supply or distribution of electricity including any service under the Orissa State Electricity Board constituted under the Electricity (Supply) Act, 1948;

(iv) any service connected with the conduct of general elections for the purpose of constituting a new Legislative Assembly for the State of Orissa;

(v) any service in connection with the affairs of the State not being a service specified in any of the foregoing sub-clauses which the State Government may, by notification, declare to be an essential service for the purposes of this Ordinance;

(vi) any other service connected with any matter with respect to which the State Legislature has power to make laws and which the State Government, being of opinion that strikes therein would prejudicially affect the maintenance of any public utility service, the public safety or the maintenance of supplies and services necessary for the life of the community or would result in the infliction of grave hardship on the community, may, by notification, declare to be an essential service for the purposes of this Ordinance;

(b) "strike" means the cessation of work by a body of persons employed in any essential service acting in combination or a concerted refusal or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment and includes—

(i) unauthorised absence from duty in pursuance of a common understanding among the persons who unauthorisedly absent themselves from duty or under the direction of any other person or persons;

(ii) refusal to work overtime where such work is necessary for the maintenance of any essential service;

(iii) any other conduct which is likely to result in, or results in, cessation or substantial retardation of work in any essential service.

(2) Every notification issued under sub-clause (v) or sub-clause (vi) of clause (a) of sub-section (1) shall be laid before each House of Parliament immediately after it is made if it is in session and on the first day of the commencement of the next session of the House if it is not in session, and shall cease to operate at the expiration of forty days from the date of its being so laid or from the re-assembly of Parliament, as the case may be, unless before the expiration of that period, a resolution approving the issue of the notification is passed by both Houses of Parliament.

*Explanation.*—Where the Houses of Parliament are summoned to re-assemble on different dates, the period of forty days shall be reckoned from the later of these dates.

3. (1) If the State Government is satisfied that in the public interest it is necessary or expedient so to do, it may, by general or special Order, prohibit strikes in any essential service specified in the Order.

Power to prohibit strikes in certain employments.

(2) An Order made under sub-section (1) shall be published in such manner as the State Government considers best calculated to bring it to the notice of the persons affected by the Order.

(3) An Order made under sub-section (1) shall be in force for six months only, but the State Government may, by a like Order, extend it for any period not exceeding six months if it is satisfied that in the public interest, it is necessary or expedient so to do.

(4) Upon the issue of an Order under sub-section (1)—

(a) no person employed in any essential service to which the Order relates shall go or remain on strike; and

(b) any strike declared or commenced, whether before or after the issue of the Order, by persons employed in any such service shall be illegal.

4. Any person who commences a strike which is illegal under this Ordinance or goes or remains on, or otherwise takes part in, any such strike shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty for illegal strikes.

5. Any person who instigates or incites other persons to take part in, or otherwise acts in furtherance of, or does any act preparatory to, a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Penalty for instigation, etc.

6. Any person who knowingly expends or supplies any money in furtherance or support of a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Penalty for giving financial aid to illegal strikes.

Power to arrest without warrant.

7. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Ordinance shall be non-bailable and any police officer may arrest without warrant any person who is reasonably suspected of having committed any such offence.

2 of 1974.

Ordinance to override other laws.

8. The provisions of this Ordinance and of any Order issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force.

14 of 1947.

N. SANJIVA REDDY,

President.

R. V. S. PERI SASTRI,

Secy. to the Govt. of India.

Explanation.—Where the House of Parliament is summoned to reassemble on different dates the period of forty days shall be reckoned as follows:—

(1) An Order made under sub-section (1) shall be published in such manner as the State Government considers best calculated to bring it to the notice of the persons affected by the Order.

(2) An Order made under sub-section (1) shall be in force for six months only, but the State Government may, by a like Order, extend it for any period not exceeding six months if it is satisfied that in the public interest it is necessary or expedient so to do.

(3) Upon the issue of an Order under sub-section (1) no person employed in any essential service to which the Order relates shall go or remain on strike; and

(4) any strike declared or commenced, whether before or after the issue of the Order, by persons employed in any such service shall be illegal.

5. Any person who commences a strike which is illegal under this Ordinance or goes or remains on or otherwise takes part in any such strike shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

6. Any person who instigates or incites other persons to take part in a strike which is illegal under this Ordinance or who otherwise acts in furtherance of or does any act preparatory to a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

7. Any person who knowingly expends or supplies any money in furtherance or support of a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 32] नई दिल्ली, बृहस्पतिवार, जून 5, 1980/ज्येष्ठा 15, 1902

No. 32] NEW DELHI, THURSDAY, JUNE 5, 1980/JYAISTHA 15, 1902

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed  
as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

New Delhi, the 5th June, 1980|Jyaistha 15, 1902 (Saka)

THE CODE OF CRIMINAL PROCEDURE (ASSAM)  
AMENDMENT ORDINANCE, 1980

No. 9 OF 1980

Promulgated by the President in the Thirty-first  
Year of the Republic of India.

An Ordinance further to amend the Code of Criminal Procedure,  
1973, in its application to the State of Assam.

WHEREAS by a Proclamation issued on the 12th day of December, 1979,  
by the President under article 356 of the Constitution, the powers of the  
Legislature of the State of Assam have been declared to be exercisable  
by or under the authority of Parliament;

AND WHEREAS Parliament is not in session and the President is satisfied  
that circumstances exist which render it necessary for him to take  
immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1)  
of article 123 of the Constitution and of all other powers enabling him in

that behalf, the President is pleased to promulgate the following Ordinance:—

Short title, extent and commencement.

1. (1) This Ordinance may be called the Code of Criminal Procedure (Assam) Amendment Ordinance, 1980.
- (2) It extends to the whole of the State of Assam.
- (3) It shall come into force at once.

Act 2 of 1974 to be amended temporarily.

2. During the period of operation of this Ordinance, the Code of Criminal Procedure, 1973, in its application to the State of Assam (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 and 4.

Amendment of section 45.

3. In the principal Act, for sub-section (2) of section 45, the following sub-section shall be substituted, namely:—

‘(2) The State Government may, by notification, direct that the provisions of sub-section (1) shall apply—

(a) to such class or category of the members of the Forces charged with the maintenance of public order, or

(b) to such class or category of other public servants [not being persons to whom the provisions of sub-section (1) apply] charged with the maintenance of public order,

as may be specified in the notification, wherever they may be serving, and thereupon the provisions of that sub-section shall apply as if for the expression “Central Government” occurring therein, the expression “State Government” were substituted.’

Amendment of section 197.

4. In the principal Act, for sub-section (3) of section 197, the following sub-section shall be substituted, namely:—

‘(3) The State Government may, by notification, direct that the provisions of sub-section (2) shall apply—

(a) to such class or category of the members of the Forces charged with the maintenance of public order, or

(b) to such class or category of other public servants [not being persons to whom the provisions of sub-section (1) or sub-section (2) apply] charged with the maintenance of public order,

as may be specified in the notification, wherever they may be serving, and thereupon the provisions of sub-section (2) shall apply as if for the expression “Central Government” occurring therein, the expression “State Government” were substituted.’

N. SANJIVA REDDY,

*President.*

R. V. S. PERI SASTRI,

*Secy. to the Govt. of India.*

CORRIGENDA

In the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1980 (3 of 1980), as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 15th April, 1980,—

- (a) at page 193, in line 5 from bottom, for "in satisfied" read "is satisfied";
- (b) at page 197, in line 14, for "scurities" read "securities";
- (c) at page 200, in line 4, for "person" read "persons".

In the Essential Services Maintenance (Maharashtra) Ordinance, 1980 (6 of 1980), as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 12th May, 1980,—

- (a) at page 226, in line 28, for "cassation" read "cessation";
- (b) at page 227, in line 25, for "relate" read "relates".

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

THE PAYMENT OF DIVIDENDS (AMENDMENT) ORDINANCE, 1980



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 42]

नई दिल्ली, वृहस्पतिवार, अगस्त 21, 1980/श्रावण 30, 1902

No. 42]

NEW DELHI, THURSDAY, AUGUST 21, 1980/SRAVANA 30, 1902

इस भाग में विभिन्न पृष्ठ संख्या दी जाती हैं जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 21st August, 1980/Sravana 30, 1902 (Saka)

THE PAYMENT OF BONUS (AMENDMENT) ORDINANCE,

1980

No. 10 OF 1980

Promulgated by the President in the Thirty-first Year of the Republic of India.

An Ordinance further to amend the Payment of Bonus Act, 1965.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:--

1. (1) This Ordinance may be called the Payment of Bonus (Amendment) Ordinance, 1980.

(2) It shall come into force at once.

2. During the period of operation of this Ordinance, the Payment of Bonus Act, 1965 (hereinafter referred to as the principal Act) shall have effect subject to the amendments specified in sections 3 to 21.

Short title and commencement.

Act 21 of 1965 to be temporarily amended.

Amend-  
ment of  
section 2.

3. In section 2 of the principal Act,—

(a) in sub-clause (a) of clause (4), after the words “being a company”, the brackets and words “(other than a banking company)” shall be inserted;

(b) in clause (8), after the figures “1970,”, the words, figures and brackets “any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980,” shall be inserted.

Substitu-  
tion of  
new sec-  
tion for  
section 4.

4. For section 4 of the principal Act, the following section shall be substituted, namely:—

“4. The gross profits derived by an employer from an establishment in respect of the accounting year shall—

(a) in the case of a banking company, be calculated in the manner specified in the First Schedule;

(b) in any other case, be calculated in the manner specified in the Second Schedule.”.

Computa-  
tion of  
gross  
profits.

Amend-  
ment of  
section 6.

5. In section 6 of the principal Act,—

(a) in clause (b), for the words “development rebate or development allowance”, the words “development rebate or investment allowance or development allowance” shall be substituted;

(b) in clause (d), for the words “Second Schedule”, the words “Third Schedule” shall be substituted.

Amend-  
ment of  
section 7.

6. In section 7 of the principal Act, in clause (e), for the brackets and words “(other than development rebate or development allowance)”, the brackets and words “(other than development rebate or investment allowance or development allowance)” shall be substituted.

Substitu-  
tion of  
new sec-  
tions for  
section 10.

7. For section 10 of the principal Act, the following sections shall be substituted, namely:—

Payment  
of  
minimum  
bonus.

“10. Subject to the other provisions of this Act, every employer shall be bound to pay to every employee in respect of the accounting year commencing on any day in the year 1979 and in respect of every subsequent accounting year, a minimum bonus which shall be 8.33 per cent. of the salary or wage earned by the employee during the accounting year or one hundred rupees, whichever is higher, whether or not the employer has any allocable surplus in the accounting year:

Provided that where an employee has not completed fifteen years of age at the beginning of the accounting year, the provisions of this section shall have effect in relation to such employee as if for the words “one hundred rupees”, the words “sixty rupees” were substituted.

11. (1) Where in respect of any accounting year referred to in section 10, the allocable surplus exceeds the amount of minimum bonus payable to the employees under that section, the employer shall, in lieu of such minimum bonus, be bound to pay to every employee in respect of that accounting year bonus which shall be an amount in proportion to the salary or wage earned by the employee during the accounting year subject to a maximum of twenty per cent. of such salary or wage.

Payment of maximum bonus.

(2) In computing the allocable surplus under this section, the amount set on or the amount set off under the provisions of section 15 shall be taken into account in accordance with the provisions of that section.

8. In section 12 of the principal Act, for the words and figures "under section 10", the words and figures "under section 10 or, as the case may be, under section 11," shall be substituted.

Amendment of section 12.

9. For section 13 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 13.

"13. Where an employee has not worked for all the working days in an accounting year, the minimum bonus of one hundred rupees or, as the case may be, of sixty rupees, if such bonus is higher than 8.33 per cent. of his salary or wage for the days he has worked in that accounting year, shall be proportionately reduced."

Proportionate reduction in bonus in certain cases.

10. For section 15 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 15.

"15. (1) Where for any accounting year the allocable surplus exceeds the amount of maximum bonus payable to the employees in the establishment under section 11, then, the excess shall, subject to a limit of twenty per cent. of the total salary or wage of the employees employed in the establishment in that accounting year, be carried forward for being set on in the succeeding accounting year and so on up to and inclusive of the fourth accounting year to be utilised for the purpose of payment of bonus in the manner illustrated in the Fourth Schedule.

Set on and set off of allocable surplus.

(2) Where for any accounting year, there is no available surplus or the allocable surplus in respect of that year falls short of the amount of minimum bonus payable to the employees in the establishment under section 10, and there is no amount or sufficient amount carried forward and set on under sub-section (1) which could be utilised for the purpose of payment of the minimum bonus, then, such minimum amount or the deficiency, as the case may be, shall be carried forward for being set off in the succeeding accounting year and so on up to and inclusive of the fourth accounting year in the manner illustrated in the Fourth Schedule.

(3) The principle of set on and set off as illustrated in the Fourth Schedule shall apply to all other cases not covered by sub-section (1) or sub-section (2) for the purpose of payment of bonus under this Act.

(4) Where in any accounting year any amount has been carried forward and set on or set off under this section, then, in calculating bonus for the succeeding accounting year, the amount of set on or set off carried forward from the earliest accounting year shall first be taken into account."

- Amend-  
ment of  
section 16.
11. In section 16 of the principal Act, in sub-section (1B), for the words "Third Schedule" at both the places where they occur, the words "Fourth Schedule" shall be substituted.
- Amend-  
ment of  
section 21.
12. In section 21 of the principal Act, in the *Explanation*, for the words and figures "sections 22, 23 and 25", the words and figures "sections 22, 23, 24 and 25" shall be substituted.
- Amend-  
ment of  
section 23.
13. In section 23 of the principal Act, in sub-section (1), for the word and figures "section 25", the words and figures "sections 24 and 25" shall be substituted.
- Insertion  
of new  
section 24.
14. After section 23 of the principal Act, the following section shall be inserted, namely:—
- "24. (1) Where any dispute of the nature specified in section 22 between an employer, being a banking company, and its employees has been referred to the said authority under that section and during the course of proceedings the accounts of the banking company duly audited are produced before it, the said authority shall not permit any trade union or employees to question the correctness of such accounts, but the trade union or the employees may be permitted to obtain from the banking company such information as is necessary for verifying the amount of bonus due under this Act.
- (2) Nothing contained in sub-section (1) shall enable the trade union or the employees to obtain any information which the banking company is not compelled to furnish under the provisions of section 34A of the Banking Regulation Act, 1949."
- Audited  
accounts  
of banking  
companies  
not to be  
ques-  
tioned.
- Amend-  
ment  
of section  
27.
15. In section 27 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—
- "(5) Nothing contained in this section shall enable an Inspector to require a banking company to furnish or disclose any statement or information or to produce, or give inspection of, any of its books of account or other documents, which a banking company cannot be compelled to furnish, disclose, produce or give inspection of, under the provisions of section 34A of the Banking Regulation Act, 1949."
- Amend-  
ment  
of section  
30.
16. In section 30 of the principal Act, in sub-section (1), after the words "appropriate Government", the words and brackets "or an officer of that Government (not below the rank of a Regional Labour Commissioner in the case of an officer of the Central Government, and not below the rank of a Labour Commissioner in the case of an officer of the State Government) specially authorised in this behalf by that Government" shall be inserted.
- Amend-  
ment  
of section  
31A.
17. In section 31A of the principal Act, in the proviso, for the words "Provided that", the words "Provided further that" shall be substituted and before the proviso as so amended, the following proviso shall be inserted, namely:—
- "Provided that any such agreement or settlement whereby the employees relinquish their right to receive the minimum bonus under section 10 shall be null and void in so far as it purports to deprive them of such right."

10 of 1949.

10 of 1949.

18. In section 32 of the principal Act,—

(a) clause (vii) shall be omitted;

(b) in clause (ix),

(i) sub-clause (ff) shall be omitted;

(ii) in sub-clause (g), after the words “financial institution”, the brackets and words “(other than a banking company)” shall be inserted.

Amendment of section 32.

19. In the principal Act, —

(a) the First Schedule shall be renumbered as the Second Schedule and in that Schedule as so renumbered—

(i) for the brackets, words and figure “(See section 4)”, the brackets, words, figure and letter “[See section 4(b)]” shall be substituted;

(ii) in the second column, against Item No. 2, for the entry “(d) Development rebate/Development allowance reserve.”; the entry “(d) Development rebate/Investment allowance/Development allowance reserve.” shall be substituted;

(b) before that Schedule as so renumbered, the following Schedule shall be inserted, namely:—

Amendment of the First Schedule.

‘THE FIRST SCHEDULE

[See section 4(a)]

COMPUTATION OF GROSS PROFITS

Accounting year ending . . . . .

Item No.	Particulars	Amount of	Amount of	Remarks
		sub-items	main items	
		Rs.	Rs.	
*1.	Net Profit as shown in the Profit and Loss Account after making usual and necessary provisions.			
2.	Add back provision for:			
	(a) Bonus to employees.			
	(b) Depreciation.			See footnote (1)
	(c) Development Rebate Reserve.			See footnote (1)
	(d) Any other reserves.			See footnote (1)
	Total of Item No. 2	Rs.		
3.	Add back also:			
	(a) Bonus paid to employees, in respect of previous accounting years.			See footnote (1)

\*Where the profit subject to taxation is shown in the Profit and Loss Account and the provision made for taxes on income is shown, the actual provision for taxes on income shall be deducted from the profit.

Item No.	Particulars	Amount of	Amount of	Remarks
		sub-items	main items	
		Rs.	Rs.	
	(b) The amount debited in respect of gratuity paid or payable to employees in excess of the aggregate of—			
	(i) the amount, if any, paid to, or provided for payment to, an approved gratuity fund; and			
	(ii) the amount actually paid to employees on their retirement or on termination of their employment for any reason.			
	(c) Donations in excess of the amount admissible for income-tax.			
	(d) Capital expenditure (other than capital expenditure on scientific research which is allowed as a deduction under any law for the time being in force relating to direct taxes) and capital losses (other than losses on sale of capital assets on which depreciation has been allowed for income-tax).			See foot-note (1)
	(e) Any amount certified by the Reserve Bank of India in terms of sub-section (2) of section 34A of the Banking Regulation Act, 1949.			10 of 1949
	(f) Losses of, or expenditure relating to, any business situated outside India.			
	Total of Item No. 3	Rs.		
4.	Add also income, profits or gains (if any) credited directly to published or disclosed reserves, other than—			
	(i) capital receipts and capital profits (including profits on the sale of capital assets on which depreciation has not been allowed for income-tax);			
	(ii) profits of, and receipts relating to, any business situated outside India;			
	(iii) income of foreign banking companies from investments outside India.			
	Net total of Item No. 4.	Rs.		
5.	Total of Item Nos. 1, 2, 3 and 4.	Rs.		

Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks
		Rs.	Rs.	
6. Deduct:				
	(a) Capital receipts and capital profits (other than profits on the sale of assets on which depreciation has been allowed for income-tax).			See foot-note (2)
	(b) Profits of, and receipts relating to, any business situated outside India.			See foot-note (2)
	(c) Income of foreign banking companies from investments outside India.			See foot-note (2)
	(d) Expenditure or losses (if any) debited directly to published or disclosed reserves, other than—			
	(i) capital expenditure and capital losses (other than losses on sale of capital assets on which depreciation has not been allowed for income-tax);			
	(ii) losses of any business situated outside India.			
	(e) In the case of foreign banking companies proportionate administrative (overhead) expenses of Head Office allocable to Indian business.			See foot-note (3)
	(f) Refund of any excess direct tax paid for previous accounting years and excess provision, if any, of previous accounting years relating to bonus, depreciation, or development rebate, if written back.			See foot-note (2)
	(g) Cash subsidy, if any, given by the Government or by any body corporate established by any law for the time being in force or by any other agency through budgetary grants, whether given directly or through any agency for specified purposes and the proceeds of which are reserved for such purposes.			See foot-note (2)
	Total of Item No. 6.	Rs.	Rs.	
7. Gross Profits for purposes of bonus (Item No. 5 minus Item No. 6)		Rs.		

*Explanation.*—In sub-item (b) of Item 3, “approved gratuity fund” has the same meaning assigned to it in clause (5) of section 2 of the Income-tax Act.

*Foot-notes—*

- (1) If, and to the extent, charged to Profit and Loss Account.
- (2) If, and to the extent, credited to Profit and Loss Account.
- (3) In the proportion of Indian Gross Profit (Item No. 7) to Total World Gross Profit (as per Consolidated Profit and Loss Account adjusted as in Item No. 2 above only).

Amend-  
ment of  
the  
Second  
Schedule.

20. In the principal Act, the Second Schedule shall be renumbered as the Third Schedule and in that Schedule as so renumbered,—

- (a) in column (2), against Item No. 1, for the word “Company”, the words “Company, other than a banking company” shall be substituted;
- (b) after Item No. 1 and the entries relating thereto, the following item and entries shall be inserted, namely:—

(1)	(2)	(3)
“2.	Banking company	<p>(i) The dividends payable on its preference share capital for the accounting year calculated at the rate at which such dividends are payable;</p> <p>(ii) 7.5 per cent. of its paid up equity share capital as at the commencement of the accounting year;</p> <p>(iii) 5 per cent. of its reserves shown in its balance-sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year;</p> <p>(iv) any sum which, in respect of the accounting year, is transferred by it—</p>
10 of 1949.		<p>(a) to a reserve fund under sub-section (1) of section 17 of the Banking Regulation Act, 1949; or</p> <p>(b) to any reserves in India in pursuance of any direction or advice given by the Reserve Bank of India,</p> <p>whichever is higher:</p>
1 of 1956.		<p>Provided that where the banking company is a foreign company within the meaning of section 591 of the Companies Act, 1956, the amount to be deducted under this Item shall be the aggregate of—</p> <p>(i) the dividends payable to its preference shareholders for the accounting year at the rate at which such dividends are payable on such amount as bears the same propor-</p>

(1)	(2)	(3)
		tion to its total preference share capital as its total working funds in India bear to its total world working funds;
		(ii) 7.5 per cent. of such amount as bears the same proportion to its total paid up equity share capital as its total working funds in India bear to its total world working funds;
		(iii) 5 per cent. of such amount as bears the same proportion to its total disclosed reserves as its total working funds in India bear to its total world working funds;
		(iv) any sum which, in respect of the accounting year, is deposited by it with the Reserve Bank of India under sub-clause (ii) of clause (b) of sub-section (2) of section 11 of the Banking Regulation Act, 1949, not exceeding the amount required under the aforesaid provision to be so deposited.”;

10 of 1949.

(c) in the Explanation, for the figures, brackets and word “1(iii) and 3(ii)”, the figures, brackets and word “1(iii), 2(iii) and 3(ii)” shall be substituted.

21. For the Third Schedule to the principal Act, the following Schedule shall be substituted, namely:—

“THE FOURTH SCHEDULE

(See sections 11, 15 and 16)

In this Schedule, the total amount of bonus equal to 8.33 per cent. of the annual salary or wage payable to all the employees is assumed to be Rs. 1,04,167. Accordingly, the maximum bonus to which all the employees are entitled to be paid (twenty per cent. of the annual salary or wage of all the employees) would be Rs. 2,50,000.

Substitution of new Schedule for the Third Schedule.

Year	Amount equal to sixty per cent. or sixty-seven per cent., as the case may be, of available surplus allocable as bonus	Amount payable as bonus	Set on or set off of the year carried forward	Total set on or set off carried forward
(1)	(2)	(3)	(4)	(5)
	Rs.	Rs.	Rs.	Rs. of (year)
I	1,04,167	1,04,167**	Nil	Nil
2	6,35,000	2,50,000*	Set on 2,50,000*	Set on 2,50,000

(1)	(2)	(3)	(4)	(5)	(6)
	Rs.	Rs.	Rs.	Rs.	of (year)
3	2,20,000	2,50,000* (inclusive of 30,000 from year-2)	Nil	Set on 2,20,000	(2)
4	3,75,000	2,50,000*	Set on 1,25,000	Set on 2,20,000 1,25,000	(2) (4)
5	1,40,000	2,50,000* (inclusive of 1,10,000 from year-2)	Nil	Set on 1,10,000 1,25,000	(2) (4)
6	3,10,000	2,50,000*	Set on 60,000	Set on Nil† 1,25,000 60,000	(2) (4) (6)
7	1,00,000	2,50,000* (inclusive of 1,25,000 from year-4 and 25,000 from year-6)	Nil	Set on 35,000	(6)
8	Nil (due to loss)	1,04,167** (inclusive of 35,000 from year-6)	Set off 69,167	Set off 69,167	(8)
9	10,000	1,04,167**	Set off 94,167	Set off 69,167 94,167	(8) (9)
10	2,15,000	1,04,167** (after setting off 69,167 from year-8 and 41,666 from year-9)	Nil	Set off 52,501	(9)

Notes.—\*Maximum.

†The balance of Rs. 1,10,000 set on from year-2 lapses.

\*\*Minimum.

N. SANJIVA REDDY,

President.

R. V. S. PERI SASTRI,

Secy. to the Govt. of India.



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 47] नई दिल्ली, सोमवार, सितम्बर 22, 1980/भाद्र 31, 1902  
No. 47] NEW DELHI, MONDAY, SEPTEMBER 22, 1980/BHADRA 31, 1902

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

New Delhi, the 22nd September, 1980/Bhadra 31, 1902 (Saka)

THE NATIONAL SECURITY ORDINANCE, 1980

No. 11 OF 1980

Promulgated by the President in the Thirty-first Year of the Republic of India.

An Ordinance to provide for preventive detention in certain cases and for matters connected therewith.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

- (1) This Ordinance may be called the National Security Ordinance, 1980. Short title, extent and commencement.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on the 23rd day of September, 1980.

Defini-  
tions.

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

(a) "appropriate Government" means, as respects a detention order made by the Central Government or a person detained under such order, the Central Government, and as respects a detention order made by a State Government or by an officer subordinate to a State Government or as respects a person detained under such order, the State Government;

(b) "detention order" means an order made under section 3;

(c) "foreigner" has the same meaning as in the Foreigners Act, 1946; 31 of 1946.

(d) "person" includes a foreigner;

(e) "State Government", in relation to a Union territory, means the administrator thereof.

Power to  
make  
orders  
detaining  
certain  
persons.

3. (1) The Central Government or the State Government may,—

(a) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the defence of India, the relations of India with foreign powers, or the security of India, or

(b) if satisfied with respect to any foreigner that with a view to regulating his continued presence in India or with a view to making arrangements for his expulsion from India,

it is necessary so to do, make an order directing that such person be detained.

(2) The Central Government or the State Government may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to the maintenance of supplies and services essential to the community it is necessary so to do, make an order directing that such person be detained.

*Explanation.*—For the purposes of this sub-section, "acting in any manner prejudicial to the maintenance of supplies and services essential to the community" does not include "acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community" as defined in the *Explanation* to sub-section (1) of section 3 of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980, and accordingly, no order of detention shall be made under this Ordinance on any ground on which an order of detention may be made under that Act.

(3) If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police, the State Government is satisfied that it is necessary so to do, it may, by order in writing, direct, that during such period as may be specified in the order, such District Magistrate or Commissioner of Police may also, if satisfied as provided in sub-section (2), exercise the powers conferred by the said sub-section:

Provided that the period specified in an order made by the State Government under this sub-section shall not, in the first instance, exceed three months, but the State Government may, if satisfied as aforesaid that it is necessary so to do, amend such order to extend such period from time to time by any period not exceeding three months at any one time.

(4) When any order is made under this section by an officer mentioned in sub-section (3), he shall forthwith report the fact to the State Government

to which he is subordinate together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof unless, in the meantime, it has been approved by the State Government:

Provided that where under section 8 the grounds of detention are communicated by the officer making the order after five days but not later than ten days from the date of detention, this sub-section shall apply subject to the modification that, for the words "twelve days", the words "fifteen days" shall be substituted.

(5) When any order is made or approved by the State Government under this section, the State Government shall, within seven days, report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as, in the opinion of the State Government, have a bearing on the necessity for the order.

2 of 1974. 4. A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973.

Execution of detention orders.

5. Every person in respect of whom a detention order has been made shall be liable—

Power to regulate place and conditions of detention.

(a) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the appropriate Government may, by general or special order, specify; and

(b) to be removed from one place of detention to another place of detention, whether within the same State or in another State, by order of the appropriate Government:

Provided that no order shall be made by a State Government under clause (b) for the removal of a person from one State to another State except with the consent of the Government of that other State.

6. No detention order shall be invalid or inoperative merely by reason—

Detention orders not to be invalid or inoperative on certain grounds.

(a) that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the Government or officer making the order, or

(b) that the place of detention of such person is outside the said limits.

7. (1) If the Central Government or the State Government or an officer mentioned in sub-section (3) of section 3, as the case may be, has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, that Government or officer may—

Powers in relation to absconding persons.

(a) make a report in writing of the fact to a Metropolitan Magistrate or a Judicial Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides;

(b) by order notified in the Official Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order.

(2) Upon the making of a report against any person under clause (a) of sub-section (1), the provisions of sections 82, 83, 84 and 85 of the Code of Criminal Procedure, 1973, shall apply in respect of such person and his property as if the detention order made against him were a warrant issued by the Magistrate.

2 of 1974.

(3) If any person fails to comply with an order issued under clause (b) of sub-section (1), he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under sub-section (3) shall be cognizable.

2 of 1974.

**8.** (1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than ten days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the appropriate Government.

Grounds of order of detention to be disclosed to persons affected by the order.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

**9.** (1) The Central Government and each State Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Ordinance.

Constitution of Advisory Boards.

(2) The constitution of every such Board shall be in accordance with the recommendations of the Chief Justice of the appropriate High Court.

(3) Every such Board shall consist of a Chairman and not less than two other members, and the Chairman shall be a serving Judge of the appropriate High Court and the other members shall be serving or retired Judges of any High Court.

*Explanation.*—In this section, “appropriate High Court” means,—

(a) in the case of the detention of a person in pursuance of an order of detention made by the Central Government or the administrator of the Union territory of Delhi or an officer subordinate to such administrator, the High Court for the Union territory of Delhi;

(b) in the case of the detention of a person in pursuance of an order of detention made by any State Government (other than the administrator of a Union territory) or an officer of such State Government, the High Court for that State; and

(c) in the case of the detention of a person in pursuance of an order of detention made by the administrator of a Union territory (other than the Union territory of Delhi) or an officer subordinate to such administrator, such High Court as the Central Government may, by order published in the Official Gazette, specify with respect to such Union territory.

10. Save as otherwise expressly provided in this Ordinance, in every case where a detention order has been made under this Ordinance, the appropriate Government shall, within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by it under section 9, the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer mentioned in sub-section (3) of section 3, also the report by such officer under sub-section (4) of that section.

Reference to Advisory Boards.

11. (1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if, in any particular case, it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the appropriate Government within seven weeks from the date of detention of the person concerned.

Procedure of Advisory Boards.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board; and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

12. (1) In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause for the detention of a person, the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit.

Action upon the report of the Advisory Board.

(2) In any case where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the detention of a person, the appropriate Government shall revoke the detention order and cause the person concerned to be released forthwith.

13. The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 12 shall be twelve months from the date of detention:

Maximum period of detention.

Provided that nothing contained in this section shall affect the power of the appropriate Government to revoke or modify the detention order at any earlier time.

14. (1) Without prejudice to the provisions of section 21 of the General Clauses Act, 1897, a detention order may, at any time, be revoked or modified,—

Revocation of detention orders.

(a) notwithstanding that the order has been made by an officer mentioned in sub-section (3) of section 3, by the State Government to which that officer is subordinate or by the Central Government;

(b) notwithstanding that the order has been made by a State Government, by the Central Government.

(2) The revocation or expiry of a detention order shall not bar the making of a fresh detention order under section 3 against the same person in any case where fresh facts have arisen after the date of revocation or expiry on which the Central Government or a State Government or an officer mentioned in sub-section (3) of section 3, as the case may be, is satisfied that such an order should be made.

Temporary release of persons detained. 15. (1) The appropriate Government may, at any time, direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may, at any time, cancel his release.

(2) In directing the release of any person under sub-section (1), the appropriate Government may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(5) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

Protection of action taken in good faith. 16. No suit or other legal proceeding shall lie against the Central Government or a State Government, and no suit, prosecution or other legal proceeding shall lie against any person, for anything in good faith done or intended to be done in pursuance of this Ordinance.

Ordinance not to have effect with respect to detentions under State laws. 17. (1) Nothing in this Ordinance shall apply or have any effect with respect to orders of detention, made under any State law, which are in force immediately before the commencement of this Ordinance, and accordingly every person in respect of whom an order of detention made under any State law is in force immediately before such commencement, shall be governed with respect to such detention by the provisions of such State law or where the State law under which such order of detention is made is an Ordinance (hereinafter referred to as the State Ordinance) promulgated by the Governor of that State and the State Ordinance has been replaced—

(i) before such commencement, by an enactment passed by the Legislature of that State, by such enactment; or

(ii) after such commencement, by an enactment which is passed by the Legislature of that State and the application of which is confined to orders of detention made before such commencement under the State Ordinance, by such enactment.

as if this Ordinance had not been promulgated.

(2) Nothing in this section shall be deemed to bar the making, under section 3, of a detention order against any person referred to in sub-section (1) after the detention order in force in respect of him as aforesaid immediately before the commencement of this Ordinance ceases to have effect for any reason whatsoever.

*Explanation.*—For the purposes of this section, "State law" means any law providing for preventive detention on all or any of the grounds on which an order of detention may be made under sub-section (2) of section 3 and in force in any State immediately before the commencement of this Ordinance.

# The Gazette of India

EXTRAORDINARY N. SANJIVA REDDY,

*President.*

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 48] of India, Government, September 23, 1960/शुक्रवाक १, १९६०  
No. 48] NEW DELHI, TUESDAY, SEPTEMBER 23, 1960/शुक्रवाक १, १९६०

R. V. S. PERI SASTRI,

*Secy. to the Govt. of India.*

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 23rd September, 1960/शुक्रवाक १, १९६०

## THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ORDINANCE, 1960

No. 43 of 1960

Promulgated by the President in the Thirty-first Year of the Republic of India.

An Ordinance further to amend the Code of Criminal Procedure, 1973.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (1) This Ordinance may be called the Code of Criminal Procedure (Amendment) Ordinance, 1960.

(2) It shall come into force at once.

2. During the period of operation of this Ordinance, the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 and 4.

Short title and commencement.

Act 2 of 1960 to be amended temporarily.



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 48] नई दिल्ली, मंगलवार, सितम्बर 23, 1980/असविना 1, 1902

No. 48] NEW DELHI, TUESDAY, SEPTEMBER 23, 1980/ASVINA 1, 1902

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed  
as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 23rd September, 1980/Asvina 1, 1902 (Saka)

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT)  
ORDINANCE, 1980

No. 12 OF 1980

Promulgated by the President in the Thirty-first Year of the  
Republic of India.

An Ordinance further to amend the Code of Criminal  
Procedure, 1973.

WHEREAS Parliament is not in session and the President is satisfied that  
circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article  
123 of the Constitution, the President is pleased to promulgate the following  
Ordinance:—

1. (1) This Ordinance may be called the Code of Criminal Procedure (Amend-  
ment) Ordinance, 1980.

Short  
title and  
commence-  
ment.

(2) It shall come into force at once.

2. During the period of operation of this Ordinance, the Code of Criminal  
Procedure, 1973 (hereinafter referred to as the principal Act), shall have effect  
subject to the amendments specified in sections 3 to 9.

Act 2 of  
1974 to be  
amended  
tempo-  
rarily.

Amendment of sections 108, 109 and 110.

3. In sections 108, 109 and 110 of the principal Act, for the words "a Judicial Magistrate of the first class", the words "an Executive Magistrate" shall be substituted.

Amendment of section 196.

4. In section 196 of the principal Act,—

(a) in sub-section (1), in clause (a), for the words, figures and letters "section 153B, section 295A or section 505", the words, figures, letter and brackets "section 295A or sub-section (1) of section 505" shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) No Court shall take cognizance of—

(a) any offence punishable under section 153B or sub-section (2) or sub-section (3) of section 505 of the Indian Penal Code, or

45 of 1860.

(b) a criminal conspiracy to commit such offence, except with the previous sanction of the Central Government or of the State Government or of the District Magistrate.";

(c) in sub-section (3), for the words, brackets and figure "under sub-section (1)", the words, brackets, figures and letter "under sub-section (1) or sub-section (1A) and the District Magistrate may, before according sanction under sub-section (1A)" shall be substituted.

Amendment of section 436.

5. In section 436 of the principal Act, in sub-section (1), in the second proviso, after the word and figures "section 116", the words, figures and letter "or section 446A" shall be inserted.

Amendment of section 437.

6. In section 437 of the principal Act,—

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

"(1) When any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but—

(i) such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;

(ii) such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a non-bailable and cognizable offence;

Provided that the Court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is under the age of sixteen years or is a woman or is sick or infirm:

Provided further that the Court may also direct that a person referred to in clause (ii) be released on bail if it is satisfied that it is just and proper so to do for any other special reason:

Provided also that the mere fact that an accused person may be required for being identified by witnesses during investigation shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court.”;

(b) in sub-section (2), for the words “the accused shall, pending such inquiry, be released on bail”, the words, figures and letter “the accused shall, subject to the provisions of section 446A and pending such inquiry, be released on bail” shall be substituted;

(c) in sub-section (4), for the word “reasons”, the words “reasons or special reasons” shall be substituted.

7. In section 446 of the principal Act, in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that where such penalty is not paid and cannot be recovered in the manner aforesaid, the person so bound as surety shall be liable, by order of the Court ordering the recovery of the penalty, to imprisonment in civil jail for a term which may extend to six months.”.

8. After section 446 of the principal Act, the following section shall be inserted, namely:—

“446A. Without prejudice to the provisions of section 446, where a bond under this Code is for appearance of a person in a case and it is forfeited for breach of a condition—

(a) the bond executed by such person as well as the bond, if any, executed by one or more of his sureties in that case shall stand cancelled; and

(b) thereafter no such person shall be released only on his own bond in that case, if the Police Officer or the Court, as the case may be, for appearance before whom the bond was executed, is satisfied that there was no sufficient cause for the failure of the person bound by the bond to comply with its condition:

Provided that subject to any other provision of this Code he may be released in that case upon the execution of a fresh personal bond for such sum of money and bond by one or more of such sureties as the Police Officer or the Court, as the case may be, thinks sufficient.”.

9. For section 478 of the principal Act, the following section shall be substituted, namely:—

“478. If the Legislative Assembly of a State by a resolution so permits, the State Government may, after consultation with the High Court, by notification, direct that references in sections 108, 109, 110, 145 and 147 to an Executive Magistrate shall be construed as references to a Judicial Magistrate of the first class.”.

Conse-  
quential  
amend-  
ment of  
Act 34  
of 1978.

10. Section 72 of the Delhi Police Act, 1978 shall be omitted.

Saving.

11. All proceedings under sections 108, 109 and 110 of the principal Act, pending before any Judicial Magistrate immediately before the commencement of this Ordinance shall, notwithstanding anything contained in this Ordinance, be dealt with as if this Ordinance had not been promulgated.

**N. SANJIVA REDDY,**

*President.*

**R. V. S. PERI SASTRI,**

*Secy. to the Govt. of India.*



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 50]

नई दिल्ली, सोमवार, अक्टूबर 13, 1980/असविन 21, 1902

No. 50]

NEW DELHI, MONDAY, OCTOBER 13, 1980/ASVINA 21, 1902

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed  
as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 13th October, 1980|Asvina 21, 1902 (Saka)

THE MARUTI LIMITED (ACQUISITION AND TRANSFER  
OF UNDERTAKINGS) ORDINANCE, 1980

No. 13 OF 1980

Promulgated by the President in the Thirty-first Year of the  
Republic of India.

An Ordinance to provide for the acquisition and transfer of the undertakings of Maruti Limited with a view to securing the utilization of the available infrastructure, to modernise the automobile industry, to effect a more economical utilisation of scarce fuel and to ensure higher production of motor vehicles which are essential to the needs of the economy of the country and for matters connected therewith or incidental thereto.

WHEREAS Maruti Limited had been engaged in the manufacture and production of articles mentioned in the First Schedule to the Industries (Development and Regulation) Act, 1951, namely, automobiles;

AND WHEREAS an order has been made for the winding up of the Company and proceedings for its liquidation are pending in the High Court of Punjab and Haryana;

AND WHEREAS the undertakings of the Company have not been functioning;

AND WHEREAS it is necessary to utilise the production facilities and equipment of the undertakings of the Company so as to increase the production of motor vehicles and generate employment in the interest of the general public;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

## CHAPTER I

### PRELIMINARY

Short  
title  
and com-  
mence-  
ment.

1. (1) This Ordinance may be called the Maruti Limited (Acquisition and Transfer of Undertakings) Ordinance, 1980.

(2) It shall come into force at once.

Defini-  
tions.

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

(a) "appointed day" means the date of commencement of this Ordinance;

(b) "Company" means Maruti Limited, being a company within the meaning of the Companies Act, 1956, and having its registered office at Palam, Gurgaon Road, Gurgaon (Haryana);

(c) "Commissioner" means the Commissioner of Payments appointed under section 15;

(d) "notification" means a notification published in the Official Gazette;

(e) "prescribed" means prescribed by rules made under this Ordinance;

(f) "specified date", in relation to any provision of this Ordinance, means such date as the Central Government may, by notification, specify for the purposes of that provision, and different dates may be specified for different provisions of this Ordinance;

(g) words and expressions used herein and not defined but defined in the Companies Act, 1956 shall have the meanings, respectively, assigned to them in that Act.

## CHAPTER II

## ACQUISITION AND TRANSFER OF THE UNDERTAKINGS OF THE COMPANY

3. On the appointed day, the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings, shall, by virtue of this Ordinance, stand transferred to, and vest in, the Central Government.

Transfer to, and vesting in, the Central Government of the undertakings of the Company.

4. (1) The undertakings of the Company shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, reserve funds, investments, book debts 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 Company, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

General effect of vesting.

(2) All properties as aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting them, and any attachment, injunction, decree or order of any court restricting the use of such properties in any manner shall be deemed to have been withdrawn.

(3) Every mortgagee of any property which has vested under this Ordinance in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property, shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(4) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (2) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amount specified in section 7, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(5) Any licence or other instrument granted to the Company in relation to any undertaking which has vested in the Central Government under section 3, at any time before the appointed day and in force immediately before that day, shall continue to be in force on and after such day in accordance with its tenor in relation to, and for the purposes of, such undertaking and on and from the day of vesting of such undertaking under section 6 in a Government company, that company shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to that Government company and

that Government company shall hold it for the remainder of the period for which that company would have held it under the terms thereof.

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any property which has vested in the Central Government, under section 3, instituted or preferred by or against the Company is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of the Company or of anything contained in this Ordinance, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government, or where the undertakings of the Company are directed under section 6, to vest in a Government company, by or against that Government company.

Central Government or Government company not to be liable for prior liabilities.

5. (1) Every liability of the Company in respect of any period prior to the appointed day, shall be the liability of the Company and shall be enforceable against it and not against the Central Government, or, where the undertakings of the Company are directed under section 6, to vest in a Government company, against that Government company.

(2) For the removal of doubts, it is hereby declared that,—

(a) save as otherwise expressly provided in this section or in any other provision of this Ordinance, no liability of the Company in respect of any period prior to the appointed day, shall be enforceable against the Central Government, or where the undertakings of the Company are directed under section 6 to vest in a Government company, against that Government company;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of the Company, passed after the appointed day, in respect of any matter, claim or dispute which arose before that day, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed under section 6 to vest in a Government company, against that Government company;

(c) no liability incurred by the Company before the appointed day, for the contravention of a provision of any law for the time being in force, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed under section 6, to vest in a Government company, against that Government company.

Power of Central Government to direct vesting of the undertakings of the Company in a Government company.

6. (1) Notwithstanding anything contained in sections 3 and 4, the Central Government may, subject to such terms and conditions as it may think fit to impose, direct, by notification, that the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings, which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in the Government company either on the date of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(2) Where the right, title and interest of the Company in relation to its undertakings, vest in a Government company under sub-section (1),

the Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings, and all the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities of the Government company.

### CHAPTER III

#### PAYMENT OF AMOUNTS

7. For the transfer to, and vesting in, the Central Government, under section 3, of the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings, there shall be paid by the Central Government to the Company, in cash, and in the manner specified in Chapter VI, an amount of rupees four hundred and thirty-four lakhs.

8. (1) The amount specified in section 7 shall carry simple interest at the rate of four per cent. per annum for the period commencing on the appointed day and ending on the date on which payment of such amount is made by the Central Government to the Commissioner.

(2) The amount determined in accordance with the provisions of sub-section (1) shall be paid by the Central Government to the Company in addition to the amount specified in section 7.

(3) For the removal of doubts, it is hereby declared that the liabilities of the Company, in relation to its undertakings which have vested in the Central Government under section 3, shall be discharged from the amount referred to in section 7, and also from the amount determined under sub-section (1) in accordance with the rights and interests of the creditors of the Company.

### CHAPTER IV

#### MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE COMPANY

9. (1) The general superintendence, direction, control and management of the affairs and business of the undertakings of the Company, the right, title and interest in relation to which have vested in the Central Government under section 3, shall,—

(a) where a direction has been made by the Central Government under sub-section (1) of section 6, vest in the Government company specified in such direction, or

(b) where no such direction has been made by the Central Government, vest in one or more Custodians appointed by the Central Government under sub-section (2),

and thereupon the Government company so specified or the Custodian or Custodians so appointed, as the case may be, shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the Company was authorised to exercise and do in relation to its undertakings.

(2) The Central Government may appoint one or more individuals or a Government company as the Custodian or Custodians of the undertakings of the Company in relation to which no direction has been made by it under sub-section (1) of section 6.

Duty to deliver possession of the undertakings of the Company and documents relating thereto.

10. (1) Notwithstanding any judgment, decree or order of any court, tribunal or other authority or anything contained in any law for the time being in force, the Official Liquidator of the Company or any other person, in whose possession or custody or under whose control the undertakings of the Company or any part thereof may be, shall forthwith deliver possession of the undertakings of the Company or any part thereof to the Central Government, or where the undertakings of the Company are vested under section 6 in a Government company, to that company.

(2) On the vesting of the management of the undertakings of the Company in a Government company or on the appointment of the Custodian or Custodians, the Official Liquidator of the Company or any other person who has, on the appointed day, in his possession or custody or under his control any books, documents or other papers relating to the undertakings of the Company immediately before such vesting or appointment, shall be bound to deliver the said books, documents or other papers to the Government company or the Custodian or Custodians or to such person as the Central Government or the Government company, as the case may be, may specify in this behalf.

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

(4) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the Government company or the Custodian or Custodians and such Government company, Custodian or Custodians may also, if it is considered necessary so to do, apply to the Central Government at any time for instructions as to the manner in which the management of the undertakings of the Company shall be conducted or in relation to any other matter arising in the course of such management.

(5) The Custodian or Custodians shall receive from the funds of the undertakings of the Company such remuneration as the Central Government may fix and shall hold office during the pleasure of the Central Government.

Duty to furnish particulars

11. (1) The Company shall, within such period as the Central Government may allow in this behalf, furnish to that Government or to the Government company a complete inventory of all the properties and assets of the Company as on the appointed day pertaining to the undertakings which have vested in the Central Government or the Government company, as the case may be.

(2) So much of the obligation of the Company under sub-section (1) as relates to the properties and assets of the Company in the possession, custody or control of the Official Liquidator of the Company shall be discharged by him.

12. The Custodian or Custodians of the undertakings of the Company shall maintain an account of the undertakings of the Company in such form and manner and subject to such conditions as may be prescribed and the provisions of the Companies Act, 1956, shall apply to the audit of the accounts so maintained as they apply to the audit of the accounts of a company.

Accounts and audit.

1 of 1956.

## CHAPTER V

### PROVISIONS RELATING TO THE EMPLOYEES OF THE COMPANY

13. (1) Every person who has been, immediately before the appointed day, employed in any of the undertakings of the Company shall become,—

Employment of certain employees to continue.

(a) on and from the appointed day, an employee of the Central Government; and

(b) where the undertakings of the Company are directed under sub-section (1) of section 6, to vest in a Government company, an employee of such Government company on and from the date of such vesting,

and shall hold office or service under the Central Government or the Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the Government company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government or the Government company, as the case may be.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed in any undertaking of the Company to the Central Government or the Government company shall not entitle such officer or other employee to any compensation under this Ordinance or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(3) Where, under the terms of any contract of service or otherwise, any person, whose services become transferred to the Central Government or the Government company by reason of the provisions of this Ordinance, is entitled to any arrears of salary or wages or any payments for any leave not availed of or any other payment, not being payment by way of gratuity or pension, such person may enforce his claim against the Company, but not against the Central Government or the Government company.

14. (1) Where the Company has established a provident fund, superannuation fund, welfare fund or any other fund for the benefit of the persons employed in any of the undertakings of the Company, the monies relatable to the officers or other employees, whose services have become transferred, by or under this Ordinance, to the Central Government or the Government company, shall, out of the monies standing, on the appointed day, to the credit of such provident fund, superannuation fund, welfare fund or other fund, stand transferred to, and vest in, the Central Government or the Government company, as the case may be.

Provident fund and other funds.

1947.

(2) The monies which stand transferred under sub-section (1) to the Central Government or the Government company, as the case may be, shall be dealt with by that Government or that Government company in such manner as may be prescribed.

## CHAPTER VI

### COMMISSIONER OF PAYMENTS

Appoint-  
ment of  
Commis-  
sioner of  
Payments.

15. (1) The Central Government shall, for the purpose of disbursing the amounts payable to the Company under section 7 and section 8, by notification, appoint a Commissioner of Payments.

(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Ordinance and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Ordinance and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

Payment  
by the  
Central  
Govern-  
ment to  
the  
Commis-  
sioner.

16. (1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the Company—

(a) an amount equal to the amount specified in section 7, and

(b) an amount equal to the amount payable to the Company under section 8.

(2) A deposit account shall be opened by the Central Government in favour of the Commissioner, in the Public Account of India, and every amount paid under this Ordinance to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(3) Records shall be maintained by the Commissioner in respect of the undertakings of the Company in relation to which payment has been made to him under this Ordinance.

(4) The interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall enure to the benefit of the Company.

Certain  
powers  
of the  
Central  
Govern-  
ment or  
Govern-  
ment  
company.

17. (1) The Central Government or the Government company, as the case may be, shall be entitled to receive up to the specified date, to the exclusion of all other persons, any money due to the Company, in relation to its undertakings which have vested in the Central Government or the Government company, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

(2) The Central Government or the Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by it after the appointed day for discharging any liability of the Company in relation to any period prior to the appointed day; and every such claim shall have priority in accordance with the priorities attaching, under this Ordinance, to the matter in relation to which such liability has been discharged by the Central Government or the Government company.

(3) Save as otherwise provided in this Ordinance, the liabilities of the Company in respect of any transaction prior to the appointed day, which have not been discharged on or before the specified date, shall be the liabilities of the Company.

18. Every person having a claim against the Company shall prefer such claim before the Commissioner within thirty days from the specified date:

Claims to be made to the Commissioner.

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days and not thereafter.

19. The claims arising out of the matters specified in the Schedule shall have priorities in accordance with the following principles, namely:—

Priority of claims.

(a) Category I shall have precedence over all other categories and Category II shall have precedence over Category III, and so on;

(b) the claims specified in each of the categories, shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly; and

(c) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

20. (1) On receipt of the claims made under section 18, the Commissioner shall arrange the claims in the order of priorities specified in the Schedule and examine the same in accordance with such order of priorities.

Examination of claims.

(2) If, on examination of the claims, the Commissioner is of opinion that the amount paid to him under this Ordinance is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the claims in respect of such lower category.

21. (1) After examining the claims with reference to the priorities set out in the Schedule, the Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim.

Admission or rejection of claims.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of any daily newspaper in the English language having circulation in the major part of the country and one issue of any daily newspaper in such regional language as the

Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the period specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, by order in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he may hold his sittings and shall, for the purpose of making an investigation under this Ordinance, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(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 object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1900.

(7) A claimant, who is dissatisfied with the decision of the Commissioner, may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated: 2 of 1974.

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, the appeal shall lie to the High Court of Punjab and Haryana and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

Disbursement of money by the Commissioner to claimants. 22. After admitting a claim under this Ordinance, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such amount is due, and, on such payment, the liability of the Company in respect of any claim relating to the undertakings of the Company shall stand discharged.

Disbursement of amounts to the Company. 23. (1) If, out of the monies paid to him in relation to the undertakings of the Company, there is a balance left after meeting the liabilities as specified in the Schedule, the Commissioner shall disburse such balance to the Company.

(2) Where the possession of any machinery, equipment or other property, has vested in the Central Government or a Government company under this Ordinance, but such machinery, equipment or other property does not belong to the Company, it shall be lawful for the Central Government or the Government company to continue to possess such machinery or equipment or other property on the same terms and conditions under which they were possessed by the Company immediately before the appointed day.

24. Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be transferred by the Commissioner, before his office is finally wound up, to the general revenue account of the Central Government; but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, and the order, if any, for payment of the claim, being treated as an order for the refund of revenue.

Undisbursed or unclaimed amount to be deposited to the general revenue account.

CHAPTER VII

MISCELLANEOUS

25. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Ordinance, or in any decree or order of any court, tribunal or other authority.

Ordinance to have overriding effect.

26. Every contract entered into by the Company in relation to its undertakings, which has vested in the Central Government under section 3, for any service, sale or supply and in force immediately before the appointed day, shall, on and from the expiry of one hundred and eighty days from the appointed day, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government or Government company, in which such undertakings have been vested under this Ordinance, and in ratifying such contract, the Central Government or such Government company may make such alteration or modification therein as it may think fit.

Contracts to cease to have effect unless ratified by Central Government or Government company.

Provided that the Central Government or such Government company shall not omit to ratify a contract and shall not make any alteration or modification in a contract—

(a) unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the Central Government or such Government company, and

(b) except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

27. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of that Government or the Government company or the Custodian or any officer or other person autho-

Protection of action taken in good faith.

rised by the Central Government or the Government company for anything which is in good faith done or intended to be done under this Ordinance.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees or the Government company or the Custodian or any officer or other person authorised by the Central Government or the Government 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 Ordinance.

Delegation  
of powers.

28. (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Ordinance, other than the power conferred by this section, section 31 and section 32, may also be exercised by such person or persons as may be specified in the notification.

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

Penalties.

29. Any person who,—

(a) having in his possession, custody or control any property forming part of any undertakings of the Company, wrongfully withholds such property from the Central Government or the Government company; or

(b) wrongfully obtains possession of, or retains, any property forming part of, the undertakings of the Company; or

(c) wilfully withholds or fails to furnish to the Central Government or the Government company or to any person or body of persons specified by that Government or such Government company, as the case may be, any document relating to the undertakings of the Company, which may be in his possession, custody or control; or

(d) fails to deliver to the Central Government or the Government company or to any person or body of persons specified by that Government or Government company, any assets, books of account, registers or other documents in his possession, custody or control, relating to the undertakings of the Company; or

(e) wrongfully removes or destroys any property forming part of the undertakings of the Company; or

(f) prefers any claim under this Ordinance which he knows or has reasonable cause to believe to be false or grossly inaccurate,

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

30. (1) Where an offence under this Ordinance 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: 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 Ordinance 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.

#### THE SCHEDULE

*Explanation.*—For the purposes of this section,—

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

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

31. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Ordinance. 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 time within which, and the manner in which, an intimation shall be given to the Commissioner under sub-section (3) of section 4;

(b) the form and the manner in which, and the conditions subject to which, the Custodian or Custodians shall maintain accounts under section 12;

(c) the manner in which the monies in any provident fund or other fund under section 14 shall be dealt with;

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

(3) Every rule made by the Central Government under this Ordinance 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.

Power to  
remove  
diffi-  
culties.

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

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

### THE SCHEDULE

(See sections 19, 20, 21 and 23)

#### ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE COMPANY

##### Category I—

(a) Employees' dues on account of unpaid salaries, wages, provident fund, Employees' State Insurance contribution or premium relating to the Life Insurance Corporation of India or any other amounts due to the employees;

(b) Revenues, taxes, cesses, rates or other dues to the Central Government, State Government and local authorities or the State Electricity Board.

##### Category II—

Amounts due to the Government of Haryana towards the cost of land.

##### Category III—

Secured loans with interest.

##### Category IV—

(a) Deposits received from the public or from the members of the Company;

(b) Deposits towards dealership;

(c) Any credit availed of for purposes of trade or manufacturing operations;

(d) Share application monies where shares were not allotted.

Category V—

Any other dues.

N. SANJIVA REDDY,  
President.

A. K. SRINIVASAMURTHY,  
Joint Secy. to the Govt. of India.

PUBLISHED BY...  
NEW DELHI, MONDAY, OCTOBER 22, 1980  
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
New Delhi, the 22nd October 1980  
THE MONOPOLIES AND RESTRICTIVE TRADE PRACTICES ACT, 1969

Proclamation by the President in the Thirty-first Year of the Republic of India.

An Ordinance in pursuance of the Monopolies and Restrictive Trade Practices Act, 1969.

Whereas Parliament has in force and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;  
Now, exercising in pursuance of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

- 1. The Monopolies and Restrictive Trade Practices Act, 1969.
- 2. During the period of operation of this Ordinance, the Monopolies and Restrictive Trade Practices Act, 1969 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in section 3.



# भारत का राजपत्र The Gazette of India

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

New Delhi, the 13th October, 1980/Asvina 21, 1902 (Saka)

## THE MONOPOLIES AND RESTRICTIVE TRADE PRACTICES (AMENDMENT) ORDINANCE, 1980

No. 14 OF 1980

Promulgated by the President in the Thirty-first Year of the Republic of India.

An Ordinance further to amend the Monopolies and Restrictive Trade Practices Act, 1969.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. (1) This Ordinance may be called the Monopolies and Restrictive Trade Practices, (Amendment) Ordinance, 1980.

Short title and commencement.

(2) It shall come into force at once.

2. During the period of operation of this Ordinance, the Monopolies and Restrictive Trade Practices Act, 1969 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in section 3.

Act 54 of 1969 to be temporarily amended.

**Amend.  
ment of  
section 2.**

**3. In section 2 of the principal Act,—**

(i) in clause (d), after *Explanation VI*, the following *Explanation* shall be inserted, namely:—

*“Explanation VII.—Where goods of any description produced in India by an undertaking have been exported to a country outside India, then the goods so exported shall not be taken into account in computing for the purposes of this clause—*

(i) the total goods of that description that are produced in India by that undertaking; or

(ii) the total goods of that description that are produced, supplied or distributed in India or any substantial part thereof.”;

(ii) in clause (j), after *Explanation IV*, the following *Explanation* shall be inserted, namely:—

*“Explanation V.—Where goods of any description produced in India by an undertaking have been exported to a country outside India, then the goods so exported shall not be taken into account in computing for the purposes of this clause—*

(i) the total goods of that description that are produced in India by that undertaking; or

(ii) the total goods of that description that are produced, supplied or distributed in India or any substantial part thereof.”.

No. 14 of 1980

N. SANJIVA REDDY,  
President.

An Ordinance further to amend the Monopolies and Restrictive Trade Practices Act, 1969.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action; NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

A. K. SRINIVASAMURTHY,  
Joint Secy. to the Govt. of India.

(2) It shall come into force at once.

2. During the period of operation of this Ordinance, the Monopolies and Restrictive Trade Practices Act, 1969 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in section 3.



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

New Delhi, the 13th October, 1980/Asvina 21, 1902 (Saka)

THE TEA (AMENDMENT) ORDINANCE, 1980

No. 15 OF 1980

Promulgated by the President in the Thirty-first Year of the Republic of India.

An Ordinance further to amend the Tea Act, 1953.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. (1) This Ordinance may be called the Tea (Amendment) Ordinance, 1980. Short title and commencement.

(2) This Ordinance, except section 4 thereof, shall be deemed to have come into force on and with effect from the date of commencement of the Tea (Amendment) Act, 1976.

Amend-  
ment of  
section  
16E.

2. In the Tea Act, 1953 (hereinafter referred to as the principal Act), in section 16E, in sub-section (1),—

(a) in clause (a), between the words "by reckless investments or" and "creation of incumbrances", the word "by" shall be inserted;

(b) the following *Explanation* shall be inserted at the end, namely:—

*Explanation.*—For the purposes of this sub-section, "incumbrances" includes any liability which may be recovered or satisfied from the assets of the tea undertaking or, as the case may be, tea unit or the person owning the tea undertaking or tea unit.

Insertion  
of new  
section  
16LL.

3. After section 16L of the principal Act, the following section shall be inserted, namely:—

Debts in-  
curred and  
invest-  
ments  
made by  
the autho-  
rised per-  
son to have  
priority.

"16LL. Every debt arising out of any loan or any other financial accommodation obtained by the authorised person for carrying on the management of, or exercising functions of control in relation to, the whole or any part of a tea undertaking or tea unit, the management of which has been taken over or is purported to have been taken over under section 16D or section 16E or section 16-I,—

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

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

and all such debts shall rank equally among themselves and be paid in full out of the assets of the tea undertaking or tea unit, unless such assets are insufficient to meet them, in which case they shall be recoverable from the owner of the tea undertaking or tea unit as arrears of land revenue notwithstanding that the period of management or control has ended due to expiry of the period for which it was taken over or due to cancellation of the order under section 16H or in pursuance of the order of any court."

4. Notwithstanding any judgment, decree or order of any court, any action or thing (including any order passed or proceeding initiated) taken or done or purported to have been taken or done under sub-section (1) of section 16E of the principal Act at any time after the commencement of the Tea (Amendment) Act, 1976, shall be deemed to be as valid and effective as if the amendments made by section 2 had been in force at the time such action or thing was taken or done.

N. SANJIVA REDDY,  
*President.*

A. K. SRINIVASAMURTHY,  
*Joint Secy. to the Govt. of India.*



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

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Separate paging is given to this Part in order that it may be filed  
as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

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THE HIND CYCLES LIMITED AND SEN-RALEIGH  
LIMITED (NATIONALISATION) ORDINANCE, 1980

No. 16 OF 1980

Promulgated by the President in the Thirty-first Year of the  
Republic of India.

An Ordinance to provide for the acquisition of the undertakings of Hind Cycles Limited, and Sen-Raleigh Limited, with a view to securing the proper management of such undertakings so as to subserve the interests of the general public by ensuring the continued manufacture, production and distribution of bicycles and their component parts and accessories which are essential to the needs of the economy of the country and for matters connected therewith or incidental thereto.

WHEREAS Hind Cycles Limited and Sen-Raleigh Limited had been engaged in the manufacture and production of articles mentioned in the First Schedule to the Industries (Development and Regulation) Act, 1951, namely, bicycles and their component parts and accessories;

AND WHEREAS the management of the undertakings of Hind Cycles Limited and Sen-Raleigh Limited were taken over by the Central Government under the provisions of the Industries (Development and Regulation) Act, 1951;

AND WHEREAS it is necessary to acquire the undertakings of Hind Cycles Limited and Sen-Raleigh Limited to ensure that the interests of the general public are served by the continuance, by the undertakings of the two companies, of the manufacture, production and distribution of the aforesaid articles which are essential to the needs of the economy of the country;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

## CHAPTER I

### PRELIMINARY

Short title and commencement.

1. (1) This Ordinance may be called the Hind Cycles Limited and Sen-Raleigh Limited (Nationalisation) Ordinance, 1980.

(2) It shall come into force at once.

Definitions.

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

(a) "appointed day" means the date of commencement of this Ordinance;

(b) "Commissioner" means the Commissioner of Payments appointed under section 15;

(c) "Custodian" means the Custodian appointed under subsection (2) of section 9 to take over, or carry on, the management of the undertakings of either, or both, of the two companies;

(d) "notification" means a notification published in the Official Gazette;

(e) "prescribed" means prescribed by rules made under this Ordinance;

(f) "Sen-Raleigh Limited" includes Sen and Pandit Industries Limited, Ancillary Industries (Lugs) Private Limited, Ancillary Industries (Forgings) Private Limited, Ancillary Industries (Cranks) Private Limited and Naokhali Machine Tools Limited, all having their registered offices at 1, Middleton Street, Calcutta;

(g) "specified date", in relation to any provision of this Ordinance, means such date as the Central Government may, by notification, specify for the purposes of that provision and different dates may be specified for different provisions of this Ordinance;

(h) "two companies" means Hind Cycles Limited and Sen-Raleigh Limited, being companies as defined in the Companies Act, 1956, and having their registered offices at Birlagram, Nagda (Madhya Pradesh), and 1, Middleton Street, Calcutta, respectively;

(i) words and expressions used herein and not defined but defined in the Companies Act, 1956, shall have the meanings, respectively, assigned to them in that Act.

## CHAPTER II

### ACQUISITION OF THE UNDERTAKINGS OF THE TWO COMPANIES

Transfer to, and vesting in, Central Government of the undertakings of the two companies.

3. On the appointed day, the undertakings of each of the two companies, and the right, title and interest of each of the two companies in relation to such undertakings, shall, by virtue of this Ordinance, stand transferred to, and shall vest in, the Central Government.

General effect of vesting.

4. (1) The undertakings of each of the two companies shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, cheques, demand drafts, reserve funds, investments, book debts 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 either of the two companies, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto, and shall also be deemed to include the liabilities specified in sub-section (2) of section 5.

(2) All properties as aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting them, and any attachment, injunction, decree or order of any court restricting the use of such properties in any manner or appointing any receiver in respect of the whole or any part of such properties shall be deemed to have been withdrawn.

(3) Every mortgagee of any property which has vested under this Ordinance in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(4) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (3) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amount specified, in relation to the company owning such property, in the First Schedule, and also out of the amounts determined under section 8, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(5) Any licence or other instrument granted to either of the two companies in relation to any undertaking which has vested in the Central Government under section 3 at any time before the appointed day and in force immediately before that day shall continue to be in force on and after such day in accordance with its tenor in relation to and for the purposes of such undertaking, and, on and from the date of vesting of such undertaking under section 6 in a Government company, the concerned Government company shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to such Government company and such Government company shall hold it for the remainder of the period for which the concerned company would have held it under the terms thereof.

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature, in relation to any matter specified in sub-section (2) of section 5, in respect of any undertaking of either of the two companies, instituted or preferred by or against either of the two companies, is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of either of the two companies, or of anything contained in this Ordinance, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government, or, where the undertakings of the two companies are directed, under section 6, to vest in Government companies, by or against the concerned Government company.

Owners of  
the two  
companies  
to be  
liable for  
certain  
prior lia-  
bilities.

5. (1) Every liability, other than the liability specified in sub-section (2), of each of the two companies in respect of any period prior to the appointed day, shall be the liability of the concerned company and shall be enforceable against it and not against the Central Government, or, where the undertakings of the two companies are directed, under section 6, to vest in Government companies, against the concerned Government company.

(2) Any liability arising in respect of materials supplied to either of the two companies after the management of the undertakings of the concerned company had been taken over by the Central Government shall, on and from the appointed day, be the liability of the Central Government or of the concerned Government company aforesaid and shall be discharged by that Government or Government company, as and when repayment for such supplies becomes due and payable.

(3) For the removal of doubts, it is hereby declared that—

(a) save as otherwise expressly provided in this section or in any other provision of this Ordinance, no liability, other than the liability specified in sub-section (2), of either of the two companies in relation to its undertakings in respect of any period prior to the appointed day, shall be enforceable against the Central Government, or, where the undertakings of the two companies are directed, under section 6, to vest in Government companies, against the concerned Government company;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of either of the two companies, passed on or after the appointed day, in respect of any matter, claim or dispute, not being a matter, claim or dispute in relation to any matter referred to in sub-section (2), which arose before that day, shall be enforceable against the Central Government, or, where the undertakings of the two companies are directed, under section 6, to vest in Government companies, against the concerned Government company;

(c) no liability incurred by either of the two companies before the appointed day, for the contravention of any provision of law for the time being in force, shall be enforceable against the Central Government, or, where the undertakings of the two companies are directed, under section 6, to vest in Government companies, against the concerned Government company.

6. (1) Notwithstanding anything contained in sections 3 and 4, the Central Government may, subject to such terms and conditions as it may think fit to impose, direct, by notification, that each of the undertakings of the two companies and the right, title and interest of each of the two companies in relation to their respective undertakings which have vested in that Government under section 3, and such of the liabilities of each of the two companies as are specified in sub-section (2) of section 5, shall, instead of continuing to vest in the Central Government, vest in two Government companies either on the date of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

Power of Central Government to direct vesting of the undertakings of the two companies in two Government companies.

(2) Where the right, title and interest, and the liabilities referred to in sub-section (2) of section 5, of each of the two companies, in relation to its undertakings, vest in two Government companies under sub-section (1), the Government companies shall, on and from the date of such vesting, be deemed to have become the owners in relation to such undertakings, and all the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Government companies.

CHAPTER III

PAYMENT OF AMOUNTS

7. For the transfer to, and vesting in, the Central Government, under section 3, of the undertakings of each of the two companies and the right, title and interest of each of the two companies in relation to such undertakings, there shall be given by the Central Government to each of the companies, in cash and in the manner specified in Chapter VI, an amount equal to the amount specified against the name of each such company in the First Schedule.

Payment of amount.

8. (1) For the deprivation of the two companies of the management of their undertakings, there shall be given by the Central Government to each of the companies in cash, an amount calculated at the rate specified against the name of each such company in the Second Schedule for the period commencing on the date on which the management of the undertakings of the said companies were taken over in pursuance of the orders made by the Central Government under the provisions of the Industries (Development and Regulation) Act, 1951 and ending on the appointed day.

Payment of further amount.

(2) The amount specified in section 7 and the amount calculated in accordance with the provisions of sub-section (1) shall carry simple interest at the rate of four per cent. per annum for the period commencing on the appointed day and ending on the date on which payment of such amount is made by the Central Government to the Commissioner.

(3) The amounts determined in accordance with the provisions of sub-sections (1) and (2) shall be given by the Central Government to the two companies in addition to the amount specified in the First Schedule.

## CHAPTER IV

## MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE TWO COMPANIES

Management, etc., of the undertakings of the two companies.

9. (1) The general superintendence, direction, control and management of the affairs and business of the undertakings of each of the two companies, the right, title and interest in relation to which have vested in the Central Government under section 3, shall,—

(a) where a direction has been made by the Central Government under sub-section (1) of section 6, vest in the Government company specified in such direction; or

(b) where no such direction has been made by the Central Government, vest in one or more Custodians appointed by the Central Government under sub-section (2),

and thereupon the Government company so specified or the Custodian or Custodians so appointed, as the case may be, shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as either, or both, of the two companies is, or are, authorised to exercise and do in relation to its or their undertakings.

(2) The Central Government may appoint one or more individuals or a Government company as the Custodian or Custodians of the undertakings of either, or both, of the two companies in relation to which no direction has been made by it under sub-section (1) of section 6.

(3) The Custodian or Custodians so appointed shall receive, from the funds of the undertakings of the two companies, such remuneration as the Central Government may fix and shall hold office during the pleasure of the Central Government.

Duty of persons in charge of management of the undertakings of the two companies to deliver all assets, etc.

10. (1) On the vesting of the management of the undertakings of the two companies in Government companies or on the appointment of a Custodian or Custodians, all persons in charge of the management of the undertakings of either of the two companies immediately before such vesting or appointment, shall be bound to deliver to the concerned Government company or the Custodian or Custodians, as the case may be, all assets, books of account, registers or other documents in their custody relating to the undertakings of such company.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the Government companies or the Custodian or Custodians, and such Government companies or the Custodian or Custodians may also, if it is considered necessary so to do, apply to the Central Government at any time for instructions as to the manner in which the management of the undertakings of the two companies shall be conducted or in relation to any other matter arising in the course of such management.

Duty of persons to account for assets, etc., in their possession.

11. (1) Any person who has, on the appointed day, in his possession or under his control any assets, books, documents or other papers relating to any undertaking owned by the two companies, which have vested in the Central Government or in Government companies under this Ordinance, and which belong to the two companies, or would have so belonged, if the undertakings owned by the two companies had not vested in the Central Government or such Government companies, shall be liable to account for the said assets, books, documents and other

papers to the Central Government or the Government companies and shall deliver them up to the Central Government or such Government companies or to such person or persons as the Central Government or the concerned Government company may specify in this behalf.

(2) The Central Government or the Government companies aforesaid may take or cause to be taken all necessary steps for securing possession of the undertakings of the two companies which have vested in the Central Government or the Government companies under this Ordinance.

(3) The two companies shall within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all their properties and assets, as on the appointed day, pertaining to the undertakings which have vested in the Central Government under section 3, and, for this purpose, the Central Government or the Government companies aforesaid shall afford to the two companies all reasonable facilities.

12. The Custodian or Custodians of the undertakings of either, or both, of the two companies shall maintain an account of the undertakings of the concerned company or companies in such form and manner and under such conditions as may be prescribed and the provisions of the Companies Act, 1956, shall apply to the audit of the account so maintained as they apply to the audit of the accounts of a company.

Audit and accounts.

#### CHAPTER V

##### PROVISIONS RELATING TO EMPLOYEES OF THE TWO COMPANIES

13. (1) Every person who has been, immediately before the appointed day, employed in any undertaking of either of the two companies shall become,—

Continuance of employees.

(a) on and from the appointed day, an employee of the Central Government, and

(b) where the undertakings of the two companies are directed, under sub-section (1) of section 6, to vest in Government companies, an employee of the concerned Government company on and from the date of such vesting or transfer,

and shall hold office or service under the Central Government or the concerned Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the concerned Government company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government, or the concerned Government company, as the case may be.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed in any undertaking of either of the two companies, to the Central Government or the Government companies, shall not entitle such officer or other employee to any compensation under this Ordinance or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

1956.

1947.

Provident fund and other funds.

14. (1) Where either of the two companies has established a provident fund, superannuation, welfare or other fund for the benefit of the persons employed in any of its undertakings, the moneys relatable to the officers or other employees whose services have become transferred by or under this Ordinance to the Central Government or a Government company shall, out of the moneys standing, on the appointed day, to the credit of such provident fund, superannuation, welfare or other fund, stand transferred to, and vest in, the Central Government or the Government company, as the case may be.

(2) The moneys which stand transferred under sub-section (1) to the Central Government or the Government company, as the case may be, shall be dealt with by that Government or Government company in such manner as may be prescribed.

## CHAPTER VI

### COMMISSIONER OF PAYMENTS

Appointment of Commissioner of Payments.

15. (1) The Central Government shall, for the purpose of disbursing the amount payable under sections 7 and 8 to each of the two companies, by notification, appoint a Commissioner of Payments.

(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Ordinance and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Ordinance and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

Payment by the Central Government to the Commissioner.

16. (1) The Central Government shall, within thirty days from the specified date, pay in cash to the Commissioner, for payment to each of the two companies,—

(a) an amount equal to the amount specified against the name of each such company in the First Schedule; and

(b) an amount equal to the amount payable to each of the two companies under section 8.

(2) A deposit account shall be opened by the Central Government in favour of the Commissioner in the Public Account of India and every amount paid under this Ordinance to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(3) Separate records shall be maintained by the Commissioner in respect of the undertakings of each of the two companies in relation to which payments have been made to him under this Ordinance.

(4) Interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall enure to the benefit of the two companies.

17. (1) The Central Government or the Government companies, as the case may be, shall be entitled to receive, up to the specified date, to the exclusion of all other persons, any money due to either of the two companies in relation to the undertakings which have vested in the Central Government or the Government companies and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

Certain powers of Central Government or Government companies.

(2) The Central Government or the Government companies, as the case may be, may make a claim to the Commissioner with regard to every payment made by that Government or the concerned Government company after the appointed day, for discharging any liability of either of the two companies, not being any liability specified in sub-section (2) of section 5, in relation to any period prior to the appointed day, and every such claim shall have priority, in accordance with the priorities attaching, under this Ordinance, to the matter in relation to which such liability has been discharged by the Central Government or the Government company.

(3) Save as otherwise provided in this Ordinance, the liabilities of either of the two companies in respect of any transaction prior to the appointed day which have not been discharged on or before the specified date shall be the liabilities of the respective company.

18. Every person having a claim against either of the two companies with regard to any of the matters specified in the Third Schedule pertaining to any undertaking owned by it shall prefer such claim before the Commissioner within thirty days from the specified date:

Claims to be made to the Commissioner.

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days, but not thereafter.

19. The claims made under section 18 shall have priorities in accordance with the following principles, namely:—

Priority of claims.

(a) Category I shall have precedence over all other categories and Category II shall have precedence over Category III and so on;

(b) the claims specified in each of the categories shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly; and

(c) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

20. (1) On receipt of the claims made under section 18, the Commissioner shall arrange the claims in the order of priorities specified in the Third Schedule and examine the same in accordance with such order.

Examination of claims.

(2) If, on examination of the claims, the Commissioner is of opinion that the amount paid to him under this Ordinance is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the claims in respect of such lower category.

Admission  
or re-  
jection  
of  
claims.

21. (1) After examining the claims with reference to the priorities specified in the Third Schedule, the Commissioner shall fix a date on or before which every claimant shall file the proof of his claim.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of any daily newspaper in the English language having circulation in the major part of the country and in one issue of any daily newspaper in such regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the period specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the period specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the concerned company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, by order in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he may hold his sitting and shall, for the purpose of making any investigation under this Ordinance, have the same powers as are vested in a civil court under the Code of Civil Procedure, 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 object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

(7) A claimant, who is dissatisfied with the decision of the Commissioner, may prefer an appeal against such decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the concerned company is situated:

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, such appeal shall lie to the High Court

exercising jurisdiction over the place in which the registered office of the concerned company is situated and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

22. After admitting a claim under this Ordinance, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such amount is due, and on such payment, the liability of each of the two companies in respect of such claim shall stand discharged.

Dis-  
bursement  
of money  
by Com-  
missioner.

23. (1) If, out of the moneys paid to him in relation to the undertakings of either of the two companies, there is a balance left after meeting the liabilities as specified in the Third Schedule, the Commissioner shall disburse such balance to the concerned company.

Dis-  
bursement  
of  
amounts  
to the  
two com-  
panies.

(2) Where the possession of any machinery, equipment or other property has vested in the Central Government or a Government company under this Ordinance, but such machinery, equipment or other property does not belong to either of the two companies, it shall be lawful for the Central Government or the concerned Government company to continue to possess such machinery or equipment or other property on the same terms and conditions under which they were possessed by either of the companies immediately before the appointed day.

24. Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be paid by the Commissioner, before his office is finally wound up, to the general revenue account of the Central Government; but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, and the order, if any, for the payment of the claim being treated as an order for the refund of revenue.

Undis-  
bursed or  
unclaimed  
amount to  
be deposit-  
ed with  
the  
general  
revenue  
account.

## CHAPTER VII

### MISCELLANEOUS

25. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force, or in any instrument having effect by virtue of any law, other than this Ordinance, or in any decree or order of any court, tribunal or other authority.

Ordinance  
to have  
overriding  
effect.

26. Every contract entered into by either of the two companies in relation to any of its undertakings which has vested in the Central Government under section 3 for any service, sale or supply, and in force immediately before the appointed day, shall, on and from the expiry of a period of thirty days from the appointed day, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government or the Government company concerned, in which such undertaking has been vested under this Ordinance and in ratifying such contract, the Central Government or such Government company may make such alteration or modification therein as it may think fit:

Contracts  
to cease to  
have  
effect  
unless rati-  
fied by the  
Central  
Govern-  
ment or  
Govern-  
ment com-  
pany.

Provided that the Central Government or such Government company shall not omit to ratify a contract and shall not make any alteration or modification in a contract—

(a) unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the Central Government or such Government company; and

(b) except after giving the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

Penalties.

27. Any person who,—

(a) having in his possession, custody or control any property forming part of any undertaking of either of the two companies, wrongfully withholds such property from the Central Government or the Government company concerned; or

(b) wrongfully obtains possession of, or retains, any property forming part of any undertaking of either of the two companies; or

(c) wilfully withholds or fails to furnish to the Central Government or the Government company concerned or any person or body of persons specified by that Government or such Government company, any document relating to such undertaking, which may be in his possession, custody or control; or

(d) fails to deliver to the Central Government or the Government company concerned or any person or body of persons specified by that Government or Government company, any assets, books of account, registers or other documents in his possession, custody or control, relating to the undertakings of either of the two companies; or

(e) wrongfully removes or destroys any property forming part of any undertaking of either of the two companies or prefers any claim which he knows or has reason to believe to be false or grossly inadequate,

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

Offences  
by com-  
panies.

28. (1) Where an offence under this Ordinance has been committed by a company, every person, who, at the time when 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 Ordinance 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.

29. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of that Government or the Custodian or the Government companies or other person authorised by that Government or Government companies for anything which is in good faith done or intended to be done under this Ordinance.

Protec-  
tion of  
action  
taken in  
good  
faith.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees or the Custodian or the Government companies or any officer or other person authorised by those companies for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Ordinance.

30. (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Ordinance, other than the powers conferred by this section and sections 31 and 32 may also be exercised by such person or persons as may be specified in the notification.

Dele-  
gation of  
powers.

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

31. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Ordinance.

Power to  
make  
rules.

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

(a) the time within which, and the manner in which, an intimation referred to in sub-section (3) of section 4 shall be given;

(b) the form and manner in which, and the conditions under which, the Custodian or Custodians shall maintain the accounts as required by section 12;

(c) the manner in which the moneys in any provident fund or other fund, referred to in section 14, shall be dealt with;

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

(3) Every rule made by the Central Government under this Ordinance 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.

Power to  
remove  
diff.  
culties.

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

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

#### THE FIRST SCHEDULE

[See sections 4(4), 7, 8(3) and 16(1) (a)]

Sl. No.	Name of the company	Amount (Rupees in lakhs)
1.	Hind Cycles Limited	241.47
2.	Sen-Raleigh Limited	708.00
3.	Sen and Pandit Industries Limited	23.96
4.	Ancillary Industries (Lugs) Private Limited	1.31
5.	Ancillary Industries (Forgings) Private Limited	1.44
6.	Ancillary Industries (Cranks) Private Limited	2.33
7.	Naokhali Machine Tools Limited	2.87

#### THE SECOND SCHEDULE

[See section 8(1)]

Sl. No.	Name of the company	Rate per annum (Rupees)
1.	Hind Cycles Limited	8,000
2.	Sen-Raleigh Limited	8,000
3.	Sen and Pandit Industries Limited	500
4.	Ancillary Industries (Lugs) Private Limited	500
5.	Ancillary Industries (Forgings) Private Limited	500
6.	Ancillary Industries (Cranks) Private Limited	500

## THE THIRD SCHEDULE

[See sections 18, 20(1), 21(1) and 23(1)]

## ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE TWO COMPANIES

*Post take-over management period***Category I—**

(a) Wages, salaries and other dues payable to the employees of the companies.

(b) Deductions made from the salaries and wages of the employees for provident fund, the Employees' State Insurance Fund, premium relating to the Life Insurance Corporation of India or for any other purpose.

**Category II—**

Principal amount of loans advanced by—

(i) the Central Government

(ii) a State Government

(iii) Banks and financial institutions

(iv) Any other sources.

**Category III—**

(a) Arrears in relation to contributions to be made by the companies to provident fund, the Employees' State Insurance Fund or under any other law for the time being in force providing for such contributions.

(b) Any credits availed of by the companies for the purpose of carrying on any trading or manufacturing operations, other than those specified in sub-section (2) of section 5.

(c) Any dues of State Electricity Boards or other Government or semi-Government institutions against supply of goods or services, other than those specified in sub-section (2) of section 5.

(d) Arrears of interest on loans and advances.

**Category IV—**

(a) Revenue, taxes, cesses, rates or other dues to the Central Government, a State Government or any local authority.

(b) Any other dues.

*Pre-take-over management period***Category V—**

(a) Wages, salaries and other dues payable to the employees of the companies.

(b) Deductions made from the salaries and wages of the employees for provident fund, the Employees' State Insurance Fund, premium relating to the Life Insurance Corporation of India or for any other purpose.

**Category VI—**

(a) Principal amount of secured loans advanced by—

- (i) the Central Government.
- (ii) a State Government
- (iii) Banks and financial institutions.

(b) Arrears in relation to contributions to be made by the companies to provident fund, the Employees' State Insurance Fund or under any other law for the time being in force providing for such contributions.

**Category VII—**

Principal amount of unsecured loans advanced by—

- (i) the Central Government
- (ii) a State Government
- (iii) Banks and financial institutions.

**Category VIII—**

(a) Any credits availed of by the companies for the purpose of carrying on any trading or manufacturing operations.

(b) Any dues of State Electricity Boards or other Government or semi-Government institutions against supply of goods or services.

(c) Arrears of interest on loans and advances.

(d) Revenue, taxes, cesses, rates or other dues to the Central Government, a State Government or any local authority.

(e) Any other loans or dues.

N. SANJIVA REDDY,  
President.

A. K. SRINIVASAMURTHY,  
Joint Secy. to the Govt. of India.



# भारत का राजपत्र

## The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

### MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 25th October, 1980/Kartika 3, 1902 (Saka)

### THE FOREST (CONSERVATION) ORDINANCE, 1980

No. 17 OF 1980

Promulgated by the President in the Thirty-first Year of the Republic of India.

An Ordinance to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Forest (Conservation) Ordinance, 1980.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

Short title, extent and commencement.

Restriction on the de-reservation of forests or use of forest land for non-forest purpose.

2. Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing—

(i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;

(ii) that any forest land or any portion thereof may be used for any non-forest purpose.

*Explanation.*—For the purposes of this section "non-forest purpose" means breaking up or clearing of any forest land or portion thereof for any purpose other than reafforestation.

Constitution of Advisory Committee.

3. The Central Government may constitute a Committee consisting of such number of persons as it may deem fit to advise that Government with regard to—

(i) the grant of approval under section 2; and

(ii) any other matter connected with the conservation of forests which may be referred to it by the Central Government.

Power to make rules.

4. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

(2) Every rule made under this Ordinance 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 to 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.

N. SANJIVA REDDY,

President.

(1) Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Forest (Conservation) Ordinance, 1980.

R. V. S. PERI SASTRI,

Secy. to the Govt. of India.

Short title, extent and commencement.



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS  
(Legislative Department)

New Delhi, the 25th October, 1980/Kartika 3, 1902 (Saka)

THE BIRD AND COMPANY LIMITED (ACQUISITION AND  
TRANSFER OF UNDERTAKINGS AND OTHER  
PROPERTIES) ORDINANCE, 1980

No. 18 OF 1980

Promulgated by the President in the Thirty-first Year of the  
Republic of India.

An Ordinance to provide for the acquisition and transfer of the undertakings of the Bird and Company Limited for the purpose of ensuring the continuity of production of goods which are vital to the needs of the country and for the acquisition of shares held by the Bird and Company Limited in the specified companies for the purpose of securing to those undertakings the facilities and advantages derived by reason of such shareholding with respect to the operation and functioning of those undertakings and also to enable the Central Government to exercise such control over the affairs of the specified companies as is necessary to ensure that the affairs of those companies are not mismanaged and for matters connected therewith or incidental thereto.

WHEREAS the Bird and Company Limited were engaged in the manufacture of E.O.T. cranes and other varieties of cranes; polystyrene based cation exchange resin; equipment for fertilizers, oil refineries, steel

plants, petro-chemical and other industries; Tanks and vessels of various shapes and sizes; water treatment equipment and other types of equipment for the control of water pollution and were also engaged in various other activities;

AND WHEREAS the top management of the Bird and Company Limited had so mismanaged the affairs of that Company as to cause heavy losses to the Company and had also managed the affairs of the Company in a manner prejudicial to the interests of the Company and the public interest;

AND WHEREAS in view of the mismanagement aforesaid, the Central Government had, in pursuance of the provisions of section 408 of the Companies Act, 1956, appointed six directors on the Board of directors of the Bird and Company Limited;

AND WHEREAS investment of a large amount is necessary for the maintenance and development of the production of the undertakings of the Company;

AND WHEREAS it is necessary in the public interest to acquire the undertakings of the Bird and Company Limited to enable the Central Government to have such investment made and to ensure that the interests of the general public are served by the continuance, by the undertakings of the Company, of the manufacture, production and distribution of goods or articles which are essential to the needs of the economy of the country;

AND WHEREAS the Bird and Company Limited is holding shares in the specified companies which are either engaged in the production, distribution or marketing of goods which are vital to the needs of the country or are engaged in providing finance to other companies which are so engaged and it is expedient in the public interest to acquire the said shares to secure for the undertakings of the Company the facilities and advantages derived by reason of such shareholding with respect to the operation and functioning of such undertakings and also to enable the Central Government to exercise, through such shareholdings, such control on the affairs of those companies as may be necessary to prevent their mismanagement;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

## CHAPTER I

### PRELIMINARY

1. (1) This Ordinance may be called the Bird and Company Limited (Acquisition and Transfer of Undertakings and Other Properties) Ordinance, 1980.

(2) It shall come into force at once.

Short  
title and  
com-  
mence-  
ment.

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

(a) “appointed day” means the date on which this Ordinance comes into force;

(b) “Commissioner” means the Commissioner of Payments appointed under section 13;

(c) “Company” means the Bird and Company Limited, being a Company as defined in the Companies Act, 1956, and having its registered office at Chartered Bank Buildings, Calcutta-700001, in the State of West Bengal;

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

(e) “prescribed” means prescribed by rules made under this Ordinance;

(f) “share” means a share, whether equity or preference, held by the Company in the capital of a specified company and includes any such share pledged by the Company with any bank or any other creditor;

(g) “specified company” means a company specified in Schedule I;

(h) “specified date” means such date as the Central Government may, for the purposes of any provision of this Ordinance, by notification, specify, and different dates may be specified for different provisions of this Ordinance;

(i) words and expressions used herein and not defined but defined in the Companies Act, 1956, shall have the meanings, respectively, assigned to them in that Act.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKINGS OF THE COMPANY AND OF SHARES HELD BY THE COMPANY IN THE SPECIFIED COMPANIES

3. On the appointed day, the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings shall, by virtue of this Ordinance, stand transferred to, and vest in, the Central Government.

Definitions.

Transfer to, and vesting in, Central Government of the undertakings of the Company.

of 1956.

1956.

Transfer and vesting of shares held by the Company in the specified companies.

4. (1) On the appointed day, all the shares held by the Company in the specified Companies shall, by virtue of this Ordinance, stand transferred to, and vest in, the Central Government.

(2) The Central Government shall be deemed, on and from the appointed day, to have been registered in the Register of Members of the concerned specified company as the holder of each share which stands transferred to, and vested in, it by virtue of the provisions of sub-section (1).

(3) For the removal of doubts, it is hereby declared that the provisions of sub-sections (1) and (2) shall not be deemed to affect,—

(a) any right of a specified company subsisting, immediately before the appointed day, against the Company to recover from it any sum of money on the ground that the Company has not paid or credited to the specified company the whole or any part of the value of the shares held by it, or on any other ground whatsoever; or

(b) any right of a specified company subsisting, immediately before the appointed day, against the Company to receive any payments due from the Company.

General effect of vesting.

5. (1) The undertakings of the Company shall be deemed to include all assets, rights, leaseholds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, reserve funds, investments, book debts 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 Company, whether within or outside India, and all books of account, registers and other documents of whatever nature relating thereto.

(2) All properties as aforesaid which have vested in the Central Government, whether under section 3 or section 4, shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting them, and any attachment, injunction, decree or order of any court or other authority restricting the use of such properties in any manner or appointing any receiver in respect of the whole or any part of such properties shall be deemed to have been withdrawn.

(3) Every mortgagee of any property which has vested under this Ordinance in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property, shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(4) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (3) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amount specified in section 8, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(5) Any licence or other instrument granted to the Company in relation to any undertaking which has vested in the Central Government under section 3, at any time before the appointed day and in force immediately before that day, shall continue to be in force on and after such day in accordance with its tenor in relation to, and for the purposes of, such undertaking and on and from the date of vesting of such undertaking under section 7, in a Government company, that Government company shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to such Government company and such Government company shall hold it for the remainder of the period for which that Company would have held it under the terms thereof.

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any property which has vested in the Central Government, whether under section 3 or under section 4, instituted or preferred by or against the Company is pending, the same shall not abate, be discontinued or be, in any way prejudicially affected by reason of the transfer of the undertakings of the Company or of anything contained in this Ordinance, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government, or where the undertakings of the Company are directed under section 7, to vest in a Government company, by or against such company.

6. (1) Every liability of the Company in respect of any period prior to the appointed day, shall be the liability of the Company and shall be enforceable against it and not against the Central Government, or, where the undertakings of the Company are directed, under section 7, to vest in a Government company, against such company.

(2) For the removal of doubts, it is hereby declared that—

(a) save as otherwise expressly provided in this Ordinance, no liability of the Company in relation to its undertakings, or in relation to any share held by it in a specified Company, in respect of any period prior to the appointed day, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed under section 7 to vest in a Government company, against such company;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of the Company or in relation to any share held by the Company in a specified company passed after the appointed day, in respect of any matter, claim or dispute which arose before that day, shall be enforceable against the Central Government, or where the undertakings of the Company are directed under section 7 to vest in a Government company, against such company;

(c) no liability incurred by the Company before the appointed day, for the contravention of any provision of law for the time being in force, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed under section 7, to vest in a Government company, against such company.

Power  
of Cen-  
tral  
Govern-  
ment  
to direct  
vesting  
of the  
under-  
takings  
of the  
Company  
in a  
Govern-  
ment  
Company

Central  
Govern-  
ment  
or the  
Govern-  
ment  
company  
not to  
be liable  
for prior  
liabilities.

Power of Central Government to direct vesting of the undertakings of the Company in a Government company.

7. (1) Notwithstanding anything contained in section 3, the Central Government may, if it is satisfied that a Government company is willing to comply with such terms and conditions as that Government may think fit to impose, direct, by notification, that the undertakings of the company and the right, title and interest of the Company in relation to its undertakings which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in the Government company either on the date of the publication of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(2) Where the right, title and interest of the Company in relation to its undertakings, vest under sub-section (1), in a Government company that Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings, and all the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of that Government company.

### CHAPTER III

#### PAYMENT OF AMOUNTS

Payment of amounts to the Company and specified companies.

8. (1) For the transfer to, and vesting in, the Central Government, under section 3, of the undertakings of the Company and the right, title and interest of the company in relation to its undertakings there shall be paid by the Central Government to the Company in cash and in the manner specified in Chapter VI, an aggregate amount of rupees two hundred and eighty-three lakhs.

(2) For the transfer to, and vesting in, the Central Government, under section 4, of the shares held by the Company in the specified companies, there shall be paid by the Central Government to the Company in cash and in the manner specified in Chapter VI, an aggregate amount of rupees twenty-seven lakhs.

(3) The amount specified in sub-section (1) and the amount specified in sub-section (2) shall carry simple interest of four per cent. per annum for the period commencing on the appointed day and ending on the date on which payment of such amount is made by the Central Government to the Commissioner.

(4) For the removal of doubts, it is hereby declared that the liabilities of the Company, in relation to its undertakings, shall be met, in accordance with the rights and interests of the creditors of the Company, from the amounts due to the Company under sub-section (1) and sub-section (2).

## CHAPTER IV

## MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE COMPANY

9. (1) The general superintendence, direction, control and management of the affairs and business of the undertakings of the Company, the right, title and interest in relation to which have vested in the Central Government under section 3, shall,—

(a) where a direction has been made by the Central Government under sub-section (1) of section 7, vest, on and from the date specified in such direction, in the Government company specified therein;

(b) where no such direction has been made by the Central Government, vest, on and from the appointed day, in one or more Custodians appointed by the Central Government under sub-section (2),

and thereupon the Government company so specified or the Custodian or Custodians so appointed, as the case may be, shall be entitled to exercise to the exclusion of all other persons, all such powers and do all such things as the Company is authorised to exercise and do in relation to its undertakings.

(2) The Central Government may appoint an individual or a Government company as the Custodian of the undertakings of the Company in relation to which no direction has been made by it under sub-section (1) of section 7.

(3) The Custodian shall receive from the funds of the undertakings of the Company such remuneration as the Central Government may fix and shall hold office during the pleasure of the Central Government.

10. (1) On the vesting of the management of the undertakings of the Company in a Government company or on the appointment of a Custodian, all persons in charge of the management of the undertakings of the Company immediately before such vesting or appointment, shall be bound to deliver to such Government company or Custodian, as the case may be, all assets, books of account, registers or other documents in their custody relating to the undertakings of the Company.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the Government company or the Custodian as to the powers and duties of such Government company or Custodian and such Government company or Custodian may also, if it is considered necessary so to do, apply to the Central Government at any time for instructions as to the manner in which the management of the undertakings of the Company shall be conducted or in relation to any other matter arising in the course of such management.

(3) The Custodian shall maintain an account of the undertakings of the Company in such form and manner and under such conditions as may be prescribed and the provisions of the Companies Act, 1956, shall apply to the audit of the account so maintained as they apply to the audit of the accounts of a company.

Management, etc., of the undertakings of the Company.

Duty of persons in charge of management of the undertakings of the Company to deliver all assets, etc.

## CHAPTER V

## PROVISION RELATING TO EMPLOYEES OF THE COMPANY

Conti-  
nuance  
of em-  
ployees.

11. (1) Every employee of the Company, employed in connection with any undertaking owned by it, shall, on and from the appointed day, become an employee of the Central Government, and where such undertaking is vested in a Government company under this Ordinance, become, on and from the date of such vesting in such Government company, an employee thereof and shall hold office or service under the Central Government or the Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the Government company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government or the Government company, as the case may be.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed in any undertaking owned by the Company to the Central Government or the Government company shall not entitle such officer or other employee to any compensation under this Ordinance or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

Provi-  
dent  
fund  
and  
other  
funds.

12. (1) Where the Company has established a provident fund, superannuation fund, welfare fund or other fund for the benefit of the person employed in any of the undertakings of the Company, the monies relatable to the employee, whose services have become transferred by or under this Ordinance, to the Central Government or the Government Company, shall, out of the monies standing, on the appointed day, to the credit of such provident, superannuation, welfare or other fund, stand transferred to, and vest in, the Central Government or the Government company, as the case may be.

(2) The monies which stand transferred under sub-section (1) to the Central Government or the Government company, as the case may be, shall be dealt with by that Government or the Government company in such manner as may be prescribed.

## CHAPTER VI

## COMMISSIONER OF PAYMENTS

Appoint-  
ment of  
Commis-  
sioner of  
Pay-  
ments.

13. (1) The Central Government shall, for the purpose of disbursing the amounts payable to the Company under section 8, by notification, appoint a Commissioner of Payments.

(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Ordinance and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Ordinance and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

14. (1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the Company the amounts specified in section 8.

Pay-  
ment by  
the  
Central  
Govern-  
ment  
to the  
Commis-  
sioner.

(2) A deposit account shall be opened by the Central Government in favour of the Commissioner, in the Public Account of India, and every amount paid under this Ordinance to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(3) Records shall be maintained by the Commissioner in respect of the undertakings of the Company and the shares held by it in the specified Companies, in relation to which payment has been made to him under this Ordinance.

(4) The interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall enure to the benefit of the Company.

15. (1) The Central Government or the Government company, as the case may be, shall be entitled to receive, up to the specified date, to the exclusion of all other persons, any money due to the Company, or the Government company, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

Certain  
powers of  
the  
Central  
Govern-  
ment or  
Govern-  
ment  
company.

(2) The Central Government or the Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by it after the appointed day for discharging any liability of the Company in relation to any period prior to the appointed day; and every such claim shall have priority in accordance with the priorities attaching, under this Ordinance, to the matter in relation to which such liability has been discharged by the Central Government or the Government company.

(3) Save as otherwise provided in this Ordinance, the liabilities of the Company in respect of any transaction prior to the appointed day, which have not been discharged on or before the specified date, shall be the liabilities of the Company.

16. Every person having a claim against the Company shall prefer such claim before the Commissioner within thirty days from the specified date:

Claims  
to be  
made  
to the  
Commis-  
sioner.

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the

said period of thirty days, he may entertain the claim within a further period of thirty days and not thereafter.

Priority  
of claims.

17. The claims arising out of the matters specified in Schedule II shall have priorities in accordance with the following principles, namely:—

(a) Category I shall have precedence over all other categories and Category II shall have precedence over Category III, and so on;

(b) the claims specified in each of the categories, shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly;

(c) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

Exami-  
nation of  
claims.

18. (1) On receipt of the claims made under section 16, the Commissioner shall arrange the claims in the order of priorities specified in Schedule II and examine the same in accordance with such order of priorities.

(2) If, on an examination of the claims, the Commissioner is of opinion that the amount paid to him under this Ordinance is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the claims in respect of such lower category.

Admis-  
sion or  
rejection  
of claims.

19. (1) After examining the claims with reference to the priorities set out in Schedule II, the Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim or be excluded from the benefit of the disbursements made by the Commissioner.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of any daily newspaper in the English language and in one issue of such daily newspaper in the regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the time specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, by order in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he may hold his sittings and shall, for the purpose of making an investigation under this Ordinance, have the same powers as are vested in a civil court under the Code of Civil Procedure, 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 object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

(7) A claimant, who is dissatisfied with the decision of the Commissioner, may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated:

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, such appeal shall lie to the High Court at Calcutta, and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

20. After admitting a claim under this Ordinance, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such amount is due, and, on such payment, the liability of the Company in respect of such claim shall stand discharged.

Disbursement of money by the Commissioner to claimants.

21. (1) If, out of the monies paid to him in relation to the undertakings of the Company, there is a balance left after meeting the liabilities as specified in Schedule II, the Commissioner shall disburse such balance to the Company.

Disbursement of amounts to the Company and possession of certain machinery, equipment, etc.

(2) Where any machinery, equipment or other property, has vested under this Ordinance, in the Central Government or the Government company, as the case may be, but such machinery, equipment or other property does not belong to the Company, it shall be lawful for the Central Government or the Government company, as the case may be, to continue to possess such machinery, equipment and other property on the same terms and conditions under which they were possessed by the Company immediately before the appointed day.

Undisbursed or unclaimed amount to be deposited to the general revenue account.

22. Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be transferred by the Commissioner, before his office is finally wound up, to the Central Revenue Account of the Central Government; but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, and the order, if any for payment of the claim, being treated as an order for the refund of revenue.

## CHAPTER VII

### MISCELLANEOUS

Ordinance to have overriding effect.

23. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Ordinance, or in any decree or order of any court, tribunal or other authority.

Contracts to cease to have effect unless ratified by the Central Government or Government company.

24. Every contract entered into by the Company in relation to the undertakings owned by it, which has vested in the Central Government under section 3, for any service, sale or supply, and in force immediately before the appointed day, shall, on and from the expiry of a period of one hundred and eighty days from the appointed day, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government or Government company, in which such undertakings have been vested under this Ordinance, and in ratifying such contract, the Central Government or Government company may make such alteration or modification therein as it may think fit:

Provided that the Central Government or Government company shall not omit to ratify a contract and shall not make any alteration or modification in a contract—

(a) unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the Central Government or such Government company; and

(b) except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording, in writing, its reasons for refusal to ratify the contract or for making any alteration or modification therein.

Penalties.

25. Any person who—

(a) having in his possession, custody or control any property forming part of any undertaking of the company, or any share held by the company in any specified company, wrongfully withholds such property or share from the Central Government or Government company; or

(b) wrongfully obtains possession of, or retains any property forming part of any undertaking of the Company or wilfully withholds or fails to furnish to the Central Government or Government

company or any person specified by that Government or Government Company, any document relating to such undertaking or share which may be in his possession, custody or control or fails to deliver to the Central Government or Government company or any person specified by that Government or Government company, any assets, books of account, registers or other documents in his possession, custody or control, relating to the undertakings of the Company or any share held by the Company in any specified company or;

(c) wrongfully recovers or destroys any property forming part of any undertaking of the Company or prefers any claim under this Ordinance which he knows or has reasonable cause to believe to be false or grossly inaccurate;

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

26. (1) Where an offence punishable under this Ordinance 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:

Offences  
by com-  
panies.

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 Ordinance 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;

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

27. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Custodian of the undertakings of the company, or the Government Company or any officer or other person authorised by that Government or Government company for anything which is in good faith done or intended to be done under this Ordinance.

Protec-  
tion of  
action  
taken  
in good  
faith.

Delegation of powers.

28. (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Ordinance, other than the powers conferred by this section and section 29 and section 30, may also be exercised by such person or persons as may be specified in the notification.

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

Power to make rules.

29. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Ordinance.

(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 time within which, and the manner in which, an intimation shall be given to the Commissioner under sub-section (3) of section 5;

(b) the form and the manner in which, and the conditions under which, accounts shall be maintained by the Custodian as required by sub-section (3) of section 10;

(c) the manner in which the monies in any provident fund or other fund referred to in section 12 shall be dealt with;

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

(3) Every rule made by the Central Government under this Ordinance 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.

Power to remove difficulties.

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

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

## SCHEDULE I

[See section 2(g)]

1. Bisra Stone Lime Company Limited
2. Burrakur Coal Company Limited
3. Birds Trading and Investments Company Limited
4. Eastern Investments Limited
5. Garuda Investments Limited
6. Karanpura Development Company Limited  
(including Funders' Shares) } Having  
Registered  
Office at
7. Kinnison Jute Mills Company Limited } Chartered  
Bank
8. Kumardhubi Fireclay and Silica Works Limited } Buildings,  
Calcutta-
9. Lawrence Investments and Property Company } 700001.
10. Ondal Investments Company Limited
11. Orissa Minerals Development Company Limited
12. Sendra Investments Company Limited
13. Birds Employees' Cooperative Society Limited
14. Becker Gray and Company (1930) Limited
15. Karanpura Collieries Limited—Preference Shares,  
having registered office at 11, British Indian Street,  
Calcutta-700069.
16. Calcium Carbide and Chemicals Ltd., having re-  
gistered office at 161/1, Mahatma Gandhi Road,  
Calcutta-700007 (Partly paid) } Having  
Registered  
Office at
17. Holman-Climax (Rock Drills) Limited } Dolphin  
Court, 7-A,
18. Holman-Climax Manufacturing Limited } Middleton  
Street,  
Calcutta-
19. Patya Tea Company Limited, having registered  
office at 12, Dilkusha Street, Calcutta-700017. } 700016.
20. The Titaghur Paper Mills Company Limited,  
having registered office at 95, Park Street,  
Calcutta-700016.
21. Sonakunda Baling Company Limited, having re-  
gistered office in Bangla Desh.

## SCHEDULE II

(See sections 17, 18, 19 and 21)

## Order of priorities for the discharge of liabilities of the Company

## Category I—

(a) Wages, salaries and other dues payable to the employees of the Company.

(b) Arrears in relation to contributions to be made by the Company to the Provident Fund, Employees State Insurance Fund, Life Insurance Corporation premium and any other arrear under any law for the time being in force (excluding gratuity).

## Category II—

Principal amount of secured loans advanced by—

(i) Central Government;

(ii) State Government;

(iii) Banks;

(iv) public financial institutions.

## Category III—

Principal amount of unsecured loans advanced by—

(i) Central Government;

(ii) State Government;

(iii) Banks;

(iv) public financial institutions.

## Category IV—

(a) Any credit availed of by the Company for the purpose of carrying on any trading or manufacturing operations.

(b) Any dues payable to the State Electricity Boards or other Government or semi-Government institutions for supply of goods or services.

(c) Arrears of interest on loans and advances.

## Category V—

(a) Revenue, taxes, cesses, rates or other dues to Central Government, State Government and local authorities.

(b) Any other loans or dues.

N. SANJIVA REDDY,  
President.

R. V. S. PERI SASTRI,  
Secy. to the Govt. of India.



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

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No. 57] 56

NEW DELHI, MONDAY, NOVEMBER 10, 1980/KARTIKA 19, 1902

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

## MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 10th November, 1980/Kartika 19, 1902 (Saka)

### THE AUROVILLE (EMERGENCY PROVISIONS) ORDINANCE, 1980

No. 19 OF 1980

Promulgated by the President in the Thirty-first Year of the Republic of India.

An Ordinance to provide for the taking over, in the public interest, of the management of Auroville for a limited period and for matters connected therewith or incidental thereto.

WHEREAS Sri Aurobindo Society, a non-governmental organisation had been a channel of funds for the setting up of a cultural township known as Auroville, where people of different countries are expected to live together in harmony in one community and are expected to engage in cultural, educational, scientific and other pursuits aiming at human unity;

AND WHEREAS the United Nations Educational, Scientific and Cultural Organisation (hereinafter referred to as 'UNESCO'), being of the opinion that the project aforesaid would contribute to international understanding and promotion of peace, by a resolution passed in 1966, commended Auroville to those interested in UNESCO's ideals;

AND WHEREAS by a further resolution passed in 1968, the UNESCO had invited its member States and international non-governmental organisations to participate in the development of Auroville as an international cultural township designed to bring together the values of different cultures and civilisations in a harmonious environment with integrated living standards which correspond to man's physical and spiritual needs;

AND WHEREAS by a further resolution passed at its sitting held from 12th October to 14th November, 1970, the UNESCO had directed its Director-General to take such steps as may be feasible, within the budgetary provisions, to promote the development of Auroville as an important international cultural programme;

AND WHEREAS Auroville was developed as a cultural township with the aid of funds received from different organisations in and outside India as also from the substantial grants received from the Central and State Governments;

AND WHEREAS pursuant to the complaints received with regard to the misuse of funds by Sri Aurobindo Society, a Committee was set up under the chairmanship of the Lieutenant-Governor of Pondicherry with representatives of the Government of Tamil Nadu and of the Ministry of Home Affairs in the Central Government, and the said Committee had, after a detailed scrutiny of the accounts of Sri Aurobindo Society, found instances of serious irregularities in the management of the said Society, misutilisation of its funds and their diversion to other purposes;

AND WHEREAS in view of the serious difficulties which have arisen with regard to the management of Auroville, it is necessary to take over, for a limited period, the management thereof and any delay in taking over the management of Auroville would be highly detrimental to the interests and objectives of Auroville;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

## CHAPTER I

### PRELIMINARY

Short  
title and  
commence-  
ment.

1. (1) This Ordinance may be called the Auroville (Emergency Provisions) Ordinance, 1980.

(2) It shall come into force at once.

Defini-  
tions.

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

(a) "Administrator" means the Administrator appointed under section 5;

(b) "appointed day" means the date on which this Ordinance comes into force;

(c) "Auroville" means so much of the undertakings as form part of, or are relatable to, the cultural township which is known as Auroville and the charter of which was proclaimed by the 'Mother' on the 28th day of February, 1968;

(d) "Council" means the 'Auroville International Advisory Council' constituted under sub-section (1) of section 6;

(e) "prescribed" means prescribed by rules made under this Ordinance;

(f) "Society" means Sri Aurobindo Society being a society as defined in the West Bengal Societies Registration Act, 1961, and having its registered office at Calcutta;

(g) words and expressions used herein and not defined, but defined in the Societies Registration Act, 1860, shall have the meanings, respectively, assigned to them in that Act.

## CHAPTER II

### TAKING OVER OF THE MANAGEMENT OF AUROVILLE

3. (1) On and from the appointed day and for a period of two years thereafter, the management of Auroville shall vest in the Central Government:

Provided that where the Central Government is of opinion that in order to secure the proper management of Auroville, it is expedient that such management should continue to vest in that Government after the expiry of the said period of two years, it may, from time to time, issue directions for the continuance of such management for such period, not exceeding one year at a time, as it may think fit; so, however, that the total period for which such management shall continue to vest in the Central Government shall not, in any case, exceed five years.

(2) Auroville shall be deemed to include all the assets, rights, leaseholds, powers, authorities and privileges, and all property (movable and immovable), including lands, buildings, works, workshops, projects, stores, instruments, machinery, automobiles and other vehicles, cash balances, funds, including reserve funds, investments and book debts of the Society as form part of, or are relatable to, Auroville and all other rights and interests arising out of such properties as were immediately before the appointed day in the ownership, possession, power or control of the Society, whether within or without India, and all books of account, registers, maps, plans and all other documents of whatever nature relating thereto.

4. (1) Notwithstanding anything contained in any other law for the time being in force or in the memorandum or the rules and regulations of the Society,—

(a) on and from the appointed day, every member of the Governing Body of the Society, by whatever name called, shall cease to exercise any powers of management in relation to Auroville;

Management of Auroville to vest in the Central Government for a limited period.

Application of West Bengal Act XXVI of 1961.

(b) it shall not be lawful for the members of the Society or any other person to nominate or appoint any person as Manager or Director of so much of the assets of the Society as form part of, or are relatable to, Auroville;

(c) no resolution in relation to Auroville passed at any meeting of the members of the Society or of the members of Auroville shall be given effect to unless it is approved by the Central Government;

(d) no proceeding for the dissolution of the Society or merger of the Society with any other society or for the appointment of a receiver in respect of any asset forming part of, or relatable to, Auroville, the management of which has vested in the Central Government under section 3, shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1) and to the other provisions contained in this Ordinance and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf for the purposes of this Ordinance, the provisions of the West Bengal Societies Registration Act, 1961, shall continue to apply to the Society in the same manner as they applied thereto before the appointed day.

West  
Bengal  
Act XXVI  
of 1961.

Adminis-  
trator of  
Auroville.

5. (1) The Central Government shall, as from the appointed day, appoint a person or a body of persons as the Administrator for the purpose of taking over the management of Auroville and the Administrator shall carry on the management of Auroville for and on behalf of the Central Government.

(2) The Administrator may authorise such person as he thinks fit also to exercise all or any of the powers exercisable by him under this Ordinance and different persons may be authorised to exercise different powers, and subject to the general or special directions given or imposed by the Administrator, the person so authorised to exercise any powers of the Administrator may exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly by this Ordinance and not by way of authorisation.

(3) If, on the appointed day, any suit, appeal or other proceeding, of whatever nature, in relation to any property which has vested in the Central Government under section 3, instituted or preferred by or against the Society is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the taking over of the management of Auroville or of anything contained in this Ordinance, but the suit, appeal or other proceeding may be pursued, prosecuted or enforced by or against the Central Government.

(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 Administrator, as to his powers and duties as that Government may deem desirable and the Administrator may apply to the Central Government at any time for instructions as to the manner in which he shall conduct the management of Auroville or in relation to any matter arising in the course of such management.

(5) Subject to the other provisions of this Ordinance and to the control of the Central Government, the Administrator shall be entitled, notwithstanding anything contained in the West Bengal Societies Registration Act, 1961, or in any other law for the time being in force, to exercise, in relation to Auroville, the powers of the Governing Body or Executive Committee or, as the case may be, of the Board of Trustees of the Society, including the powers to dispose of any property or assets of the Society, whether such powers are derived from the West Bengal Societies Registration Act, 1961, or from the memorandum and rules and regulations of the Society or from any other source.

(6) The Administrator and the other persons authorised by him under sub-section (2) shall receive from the funds of the Society relatable to Auroville such remuneration as the Central Government may fix.

6. (1) As soon as may be after the commencement of this Ordinance and in any case within one month from such commencement, the Central Government shall constitute, by notification in the Official Gazette, a Council to be called the 'Auroville International Advisory Council'.

Advisory Council.

(2) The Council may on its own motion or on a reference made to it by the Central Government advise the Central Government on any matter concerning the management of Auroville.

(3) In tendering any advice to the Central Government, the Council shall endeavour to secure that—

(a) the ideals for which Auroville has been established are encouraged, and

(b) the members of Auroville are allowed freedom to grow and develop activities and institutions for the fulfilment of the aspirations and programmes envisaged in the Charter of Auroville.

(4) The Council shall consist of such number of members not exceeding five as may be appointed by the Central Government from amongst persons, who in its opinion are devoted to the ideals of human unity, peace and progress.

(5) There shall be a Chairman of the Council who shall be elected by the members of the Council from among themselves.

(6) The term of office of, the method of filling casual vacancies among, and the allowances and other remuneration, if any, payable to, the members of the Council shall be such as may be prescribed.

(7) The Council shall, subject to any rules that may be made in this behalf under section 17, have power to regulate its own procedure.

7. (1) Every person having, on the appointed day, in his possession, custody or control any property forming part of, or relatable to, Auroville, shall deliver forthwith such property to the Administrator or to any officer or other employee of the Central Government as may be authorised by the Central Government in this behalf.

Delivery of possession of properties of Auroville.

(2) Any person who has, on the appointed day, in his possession or under his control any books, papers or other documents relating to Auroville (including the minutes books containing resolutions in

relation to Auroville adopted by persons in charge of the management of the Society before the appointed day), the current cheque books relating to Auroville, any letters, memoranda, notes and other communications between him and the Society, 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 (including such minutes books, cheque books, letters, memoranda, notes and other communications) to the Administrator or to such person (being an officer or other employee of the Central Government) as may be authorised by the Central Government in this behalf.

(3) Every person in charge of the management of Auroville 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 Administrator a complete inventory of all the properties and assets (including particulars of donations received, book debts, investments and belongings) forming part of, or relating to, Auroville immediately before the appointed day and all liabilities and obligations of the Society in relation to Auroville subsisting immediately before that day and also of all agreements entered into by the Society in relation to Auroville and in force immediately before the appointed day.

Relinquish-  
ment of  
manage-  
ment  
before the  
specified  
period.

8. (1) If at any time it appears to the Central Government that the purposes for which the management of Auroville had been taken over have been fulfilled or that for any other reason it is not necessary that the management of Auroville should remain vested in that Government, it may, notwithstanding anything contained in sub-section (1) of section 3, by order published in the Official Gazette, relinquish the management of Auroville with effect from such date as may be specified in the order.

(2) On and from the date specified in the order made under sub-section (1), the management of the property of the Society forming part of, or relating to, Auroville, shall vest in the Governing Body (by whatever name called) of the Society and such management shall be carried on in accordance with the provisions of the West Bengal Societies Registration Act, 1961, so, however, that the steps, if any, in relation to the management of the property of the Society forming part of, or relating to, Auroville, may be taken after the publication of the order made under sub-section (1).

West  
Bengal  
Act  
of 1961

Tribunal.

9. (1) If any dispute or doubt arises as to whether any assets, right, lease-hold, power, authority, privilege, property (whether movable or immovable) including any land, building, works, workshop, project, stores, instruments, machinery, automobile or other vehicles, cash balances, funds (including reserve funds), investments and book debts forms or form part of, or is or are relating to, Auroville for the purposes of section 3, such dispute or doubt shall, at the request of the Society or the Administrator or any other person interested or at the instance of the Central Government, be referred to a Tribunal consisting of one member (being a person who is or has been a Judge of a High Court) to be appointed by the Central Government.

(2) The Tribunal shall, for the purposes of any reference under sub-section (1), have all the powers of a civil court while trying a suit under

the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents producible as evidence;
- (c) recording evidence on oath;
- (d) requisitioning any public record from any court or office;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) such other matters as may be prescribed.

(3) 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).

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

10. Any person aggrieved by the decision of the Tribunal under section 9 may, within thirty days from the date of such decision, prefer an appeal to the High Court at Madras and such appeal shall be heard and disposed of by not less than two Judges of that High Court: Appeal.

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period aforesaid.

### CHAPTER III

#### MISCELLANEOUS

11. The provisions of this Ordinance or any notification, order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Ordinance or in any instrument having effect by virtue of any law other than this Ordinance or in any decree or order of any court. Ordinance to have overriding effect.

12. (1) Every contract (including any contract of employment or other arrangement) entered into by the Society in relation to Auroville, the management of which has vested in the Central Government under section 3, and in force immediately before the appointed day, shall, on and from the date of expiry of ninety days from the appointed day, cease to have effect unless such contract or other arrangement has been, before the expiry of that period, ratified, in writing, by the Central Government; and in ratifying such contract or other arrangement, the Central Government may make such alterations or modifications therein as it may think fit: Contracts, etc., cease to have effect unless ratified by the Central Government.

Provided that the Central Government shall not omit to ratify any contract or other arrangement and shall not make any alteration or modification therein—

- (a) unless it is satisfied that such contract or other arrangement is unduly onerous or has been entered into in bad faith or is detrimental to the interests of Auroville; and

(b) except after giving the parties to the contract or other arrangement a reasonable opportunity of being heard and except after recording, in writing, its reasons for refusal to ratify the contract or other arrangement or for making any alteration or modification therein.

(2) Notwithstanding anything contained in any law for the time being in force, no person in respect of whom any contract or other arrangement is terminated, altered or modified under sub-section (1), or who ceases to exercise any powers or hold any office by reason of any provision contained in sub-section (1) of section 4, shall be entitled to claim any compensation for the premature termination of the contract or other arrangement or for any alteration or modification therein or for the loss of his powers or office.

Exclusion  
of period  
of opera-  
tion of  
Ordinance.

13. In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by the Society in respect of any matter arising out of any transaction relating to Auroville, the time during which this Ordinance is in force shall be excluded.

Protection  
of action  
taken in  
in good  
faith.

14. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government or the Administrator or any person authorised under sub-section (2) of section 5 by the Administrator for anything which is in good faith done or intended to be done under this Ordinance.

(2) No suit or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government or the Administrator or any person authorised under sub-section (2) of section 5 by the Administrator for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Ordinance.

Penalties.

15. Any person who,—

(a) having in his possession or custody or control any asset or property forming part of, or relating to, Auroville, wrongfully withholds such property from the Administrator or any person authorised under this Ordinance, or

(b) wrongfully obtains possession of any such asset or property forming part of, or relating to, Auroville, or

(c) wilfully retains any asset or property forming part of, or relating to, Auroville, or removes or destroys it, or

(d) wilfully withholds or fails to deliver any books, papers or other documents relating to Auroville which may be in his possession or custody or under his control to the Administrator or any person authorised under this Ordinance, or

(e) fails, without any reasonable cause, to furnish any inventory of properties and assets as provided in sub-section (3) of section 7,

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

16. (1) Where an offence under this Ordinance 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:

Offences  
by com-  
panies.

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 Ordinance 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 in the Official Gazette, make rules to carry out the provisions of this Ordinance.

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 term of office of, the method of filling casual vacancies among, and the allowances and other remuneration, if any, payable to, the members of the Council under sub-section (6) of section 6;

(b) the additional matters in respect of which the Tribunal shall have the powers of a civil court under clause (f) of sub-section (2) of section 9; and

(c) any other matter which is required to be, or may be, prescribed, or in respect of which rules may be made, under this Ordinance.

(3) Every rule made by the Central Government under this Ordinance 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 modi-

fication 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.

Offences  
by com-  
panies.

N. SANJIVA REDDY,  
President.

R. V. S. PERI SASTRI,  
Secy. to the Govt. of India.

Provided that nothing contained in this sub-section shall render 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.

(3) Notwithstanding anything contained in sub-section (1) where any offence under this Ordinance 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.  
(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

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 term of office of the method of filling casual vacancies among and the allowances and other remuneration if any payable to the members of the Council under sub-section (2) of section 6;

(b) the additional matters in respect of which the Tribunal shall have the powers of a civil court under clause (1) of sub-section (2) of section 8; and

(c) any other matter which is required to be or may be prescribed or in respect of which rules may be made under this Ordinance.

(3) Every rule made by the Central Government under this Ordinance 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