रिबस्ट्री सं डी-(डी)-72

REGISTERER No. D-(D)-72



असाधारण EXTRAORDINARY

भाग II—खण्ड 1
PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

सं० 4] नई दिल्लो, बहुस स्तिवार, जनवरी 12, 198 / पोष 22, 1905 (शक)
No. 4] NEW DELHI, THURSDAY, JANUARY 12, 1984/PAUSA 22, 1905 (SAKA)

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 January, 1984/Pausa 22, 1905 (Saka)

THE INDUSTRIES (DEVELOPMENT AND REGULATION) AMENDMENT ORDINANCE, 1984

No. 1 OF 1984

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

An Ordinance further to amend the Industries (Development and Regulation) Act, 1951.

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 Industries (Development and Regulation) Amendment Ordinance, 1984.
 - (2) It shall come into force at once.

Short title and commencement. Amendment of section 3 of Act 65 of 1951.

- 2. In section 3 of the Industries (Development and Regulation) Act, 1951 (hereinafter referred to as the principal Act),—
 - (i) clauses (aa) and (ab) shall be re-lettered as clauses (ab) and (ac) respectively, and before clause (ab) as so re-lettered, the following clause shall be inserted, namely:—
 - '(aa) "ancillary industrial undertaking" means an industrial undertaking which, in accordance with the proviso to sub-section (1) of section 11B and the requirements specified under that sub-section, is entitled to be regarded as an ancillary industrial undertaking for the purposes of this Act;';
 - (ii) clause (j) shall be re-lettered as clause (k), and before clause (k) as so re-lettered, the following clause shall be inserted, namely:—
 - '(i) "small scale industrial undertaking" means an industrial undertaking which, in accordance with the requirements specified under sub-section (1) of section 11B, is entitled to be regarded as a small scale industrial undertaking for the purposes of this Act;'.

Insertion of new section 11B.

Power of Central Government to specify the

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takings.

- 3. After section 11A of the principal Act, the following section shall be inserted, namely:--
 - "11B. (1) The Central Government may, with a view to ascertaining which ancillary and small industrial undertakings need supportive measures, exemptions or other favourable treatment under this Act to enable them to maintain their viability and strength so as to be effective in—
 - (a) promoting in a harmonious manner the industrial economy of the country and easing the problem of unemployment, and
 - (b) securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good,

specify, having regard to the factors mentioned in sub-section (2), by notified order, the requirements which shall be complied with by an industrial undertaking to enable it to be regarded, for the purposes of this Act, as an ancillary, or a small scale, industrial undertaking and different requirements may be so specified for different purposes or with respect to industrial undertakings engaged in the manufacture or production of different articles:

Provided that no industrial undertaking shall be regarded as an ancillary industrial undertaking unless it is, or is proposed to be, engaged in—

- (i) the manufacture of parts, components, sub-assemblies, toolings or intermediates; or
- (ii) rendering of services, or supplying or rendering, not more than fifty per cent. of its production or its total services, as the case may be, to other units for production of other articles.
- (2) The factors referred to in sub-section (1) are the following, namely:—
 - (a) the investment by the industrial undertaking in-
 - (i) plant and machinery, or
 - (ii) land, buildings, plant and machinery;

- (b) the nature of ownership of the industrial undertaking;
- (c) the smallness of the number of workers employed in the industrial undertaking;
- (d) the nature, cost and quality of the product of the industrial undertaking;
- (e) foreign exchange, if any, required for the import of any plant or machinery by the industrial undertaking; and
 - (f) such other relevant factors as may be prescribed.
- (3) A copy of every notified order proposed to be made under subsection (1) shall be laid in draft 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 disapproving the issue of the proposed notified order or both Houses agree in making any modification in the proposed notified order, the notified order shall not be made, or, as the case may be, shall be made only in such modified form as may be agreed upon by both the Houses.
- (4) Notwithstanding anything contained in sub-section (1), an industrial undertaking which, according to the law for the time being in force, fell, immediately before the commencement of the Industries (Development and Regulation) Amendment Ordinance, 1984, under the definition of an ancillary, or small scale, industrial undertaking, shall, after such commencement, continue to be regarded as an ancillary, or small scale, industrial undertaking for the purposes of this Act until the definition aforesaid is altered or superseded by any notified order made under sub-section (1).".
- 4. In clause (i) of sub-section (1) of section 24 of the principal Act, for the words, brackets, figures and letter "sub-section (2) of section 29B", the words, brackets, figures and letters "sub-sections (2), (2A), (2D), (2F) and (2G) of section 29B" shall be substituted.

Amendment of section 24.

5. In section 29B of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:—

Amendment of section 29B.

- "(2A) In particular, and without prejudice to the generality of the provisions of sub-section (1), the Central Government may, if it is satisfied, after considering the recommendations made to it by the Advisory Committee constituted under sub-section (2B), that it is necessary so to do for the development and expansion of ancillary, or small scale, industrial undertakings by notified order, direct that any article or class of articles specified in the First Schedule shall, on and from such date as may be specified in the notified order (hereafter in this section referred to as the "date of reservation") be reserved for exclusive production by the ancillary, or small scale, industrial undertakings (hereafter in this section referred to as "reserved article").
- (2B) The Central Government shall, with a view to determining the nature of any article or class of articles that may be reserved for production by the ancillary, or small scale, industrial undertakings, constitute an Advisory Committee consisting of such persons as have, in the opinion of that Government, the necessary expertise to give advice on the matter.
- (2C) The Advisory Committee shall, after considering the following matters, communicate its recommendations to the Central Government, namely:—

- (a) the nature of any article or class of articles which may be produced economically by the ancillary, or small scale, industrial undertakings;
- (b) the level of employment likely to be generated by the production of such article or class of articles by the ancillary, or small scale, industrial undertakings;
- (c) the possibility of encouraging and diffusing entrepreneurship in industry;
- (d) the prevention of concentration of economic power to the common detriment; and
 - (e) such other matters as the Advisory Committee may think fit.
- (2D) The production of any reserved article or class of reserved articles by any industrial undertaking (not being an ancillary, or small scale, industrial undertaking) which, on the date of reservation, is engaged in, or has taken effective steps for, the production of any reserved article or class of reserved articles, shall, after the commencement of the Industries (Development and Regulation) Amendment Ordinance, 1984, or, as the case may be, the date of reservation, whichever is later, be subject to such conditions as the Central Government may, by notified order, specify.
- (2E) While specifying any condition under sub-section (2D), the Central Government may take into consideration the level of production of any reserved article or class of reserved articles achieved immediately before the date of reservation, by the industrial undertaking referred to in sub-section (2D), and such other factors as may be relevant.
- (2F) Every person or authority, not being the Central Government, who, or which, is registered under section 10 or to whom, or to which, a licence has been issued or permission has been granted under section 11 for the production of any article or class of articles which has, or have, been subsequently reserved for the ancillary, or small scale, industrial undertakings, shall produce, such registration certificate, licence or permission, as the case may be, within such period as the Central Government may, by notified order, specify in this behalf, and the Central Government may enter therein all or any of the conditions specified by it under sub-section (2D), including the productive capacity of the industrial undertakings and other prescribed particulars.
- (2G) The owner of every industrial undertaking (not being an ancillary, or small scale, industrial undertaking) which, immediately before the commencement of the Industries (Development and Regulation) Amendment Ordinance, 1984, or the date of reservation, whichever is later,—
 - (a) was engaged in the production of any article or class of articles, which has, or have, been reserved for the ancillary, or small scale, industrial undertakings, or
 - (b) had before such commencement or before the date of such reservation, as the case may be, taken effective steps for commencing the production of such reserved article or class of reserved articles,

without being registered under section 10 or in respect of which a licence or permission has not been issued under section 11, shall refrain from the production of such reserved article or class of reserved articles, on and from the date of expiry of three months from such commencement or from the date of such reservation, whichever is later.

(2H) Every notified order made under sub-section (2A) 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 notified order or both Houses agree that the notified order should not be made, the notified order shall thereafter have effect only in such modified form or be or 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 notified order.

6. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other law, agreement or other instrument for the time being in force, every notification made or purporting to have been made by the Central Government under the principal Act, on or after the 19th day of February, 1970, reserving any article or class of articles for production by any ancillary or small scale industrial undertaking or any class of ancillary or small scale industrial undertakings shall, for all purposes, be, and shall be deemed always to have been, as valid and effective as if the amendments made to the principal Act by this Ordinance had been in force at all material times and such notification had been made in full compliance with the provisions made by such amendments and accordingly any reservation made or purporting to have been made by such notification shall, in accordance with the tenor thereof, have, and be deemed always to have had, effect on and from the date of such reservation and shall, until it is altered or superseded by any fresh notification under the principal Act as amended by this Ordinance, continue to have effect.

Explanation.—For the removal of doubts it is hereby provided that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

ZAIL SINGH,

President.

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

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रजिस्ट्री सं० डी-(डी)-72

REGISTERED No. D-(D)-72



असाधारण EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

संo 5) No 5) नई दिल्लो, शनिवार, जनवरी 28, 1984/माघ 8, 1905 (शक) NEW DELHI, SATURDAY, JANUARY 28, 1984/MAGHA 8, 1905 (SAKA)

इस भाग में भिन्न पूछ संख्या दो 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 28th January, 1984/Magha 8, 1905 (Saka)

THE GANESH FLOUR MILLS (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ORDINANCE, 1984

No. 2 of 1984

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

An Ordinance to provide for the acquisition and transfer of the right, title and interest of certain undertakings of the Ganesh Flour Mills Company with a view to sustaining and strengthening the nucleus of public owned or controlled units required for ensuring supply of wholesome vanaspati and refined edible oils, nutritious foods and other consumer commodities to the public at reasonable prices and thereby to give effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of article 39 of the Constitution.

WHEREAS the Ganesh Flour Mills Company Limited has through the Ganesh Flour Mills been engaged mainly in the manufacture and production of certain commodities, namely, vanaspati, refined edible oils, various types of nutritious foods and other consumer commodities which are essential to the needs of the community;

AND WHEREAS the management of the said Ganesh Flour Mills was taken over by the Central Government under the Industries (Development and Regulation) Act, 1951;

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AND WHEREAS it is necessary to acquire the undertakings of the Ganesh Flour Mills Company Limited in relation to the Ganesh Flour Mills for sustaining and strengthening the nucleus of public owned ar controlled units required for ensuring supply of wholesome vanaspati, refined edible oils, various types of nutritious foods and other consumer commodities to the public at reasonable prices;

AND WHEREAS such acquisition is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of article 39 of the Constitution;

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 Ganesh Flour Mills Company Limited (Acquisition and Transfer of Undertakings) Ordinance, 1984.
 - (2) It shall come into force at once.

Definitions.

- 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 14;
- (c) "Company" means the Ganesh Flour Mills Company Limited, Delhi, a company within the meaning of the Companies Act, 1956 and having its registered office at Subzi Mandi, Delhi;
- (d) "date of taking over" means the date on which the management of the Ganesh Flour Mills of the Company was taken over by the Board of Management by virtue of the Order of the Government of India in the late Ministry of Industrial Development No. S.O. 695(E) 18AA IDRA 72, dated the 3rd November, 1972 made under sub-section (1) of section 18AA of the Industries (Development and Regulation) Act, 1951;
 - (e) "Ganesh Flour Mills" means-
 - (i) the Delhi Vanaspati Factory, Delhi;
 - (ii) the Hindustan Breakfast Food Manufacturing Factory, New Delhi, including the Ganesh Electrical Factory, New Delhi which is interlinked with it by reason of its location, common services and infrastructure;
 - (iii) the Kanpur Vanaspati Factory, Kanpur; and
 - (iv) the Solvent Extraction Plant, Bombay;
- (f) "notification" means a notification published in the Official Gazette;

1956.

- (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 purpose of that provision and different dates may be specified for different provisions of this Ordinance;
- (i) "the Government company" means the Government company in which the Ganesh Flour Mills are directed to vest under sub-section (1) of section 5.
- (j) 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

CHAPTER II

ACQUISITION AND TRANSFER OF GANESH FLOUR MILLS

3. On the appointed day, the Ganesh Flour Mills and the right, title and Transfer to, interest of the Ganesh Flour Mills Company Limited in relation to the Ganesh Flour in, the Cen-Mills, shall, by virtue of this Ordinance, stand transferred to, and shall vest in, tral Governthe Central Government.

ment of Ganesh Flour Mills.

General

- 4. (1) The Ganesh Flour Mills shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and vesting. immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, reserve funds, investments and book debts pertaining to the Ganesh Flour Mills 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 in relation to the Ganesh Flour Mills, whether within or outside India, and all books of account, registers and other decuments of whatever nature relating thereto.
- (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 or 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 amounts 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 the Ganesh Flour Mills which has vested in the Central Government under section 3 at any time before the appointed day and in force immeditely 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, the Ganesh Flour Mills and, on and from the date of vesting of the Ganesh Flour Mills under section 5 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 that Government company and that Government company shall hold it for the remainder of the period for which the Company to which it was granted would have held it under the terms thereof.
- (6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature instituted or preferred by or against the Company, in relation to the Ganesh Flour Mills, is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the Ganesh Flour Mills 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 Ganesh Flour Mills vest in a Government company under section 5, by or against the Government company.

Power of ernment to direct vesting of the Ganesh Flour Mills ment company.

- 5. (1) Notwithstanding anything contained in sections 3 and 4, the Central Central Gov- Government may, if it is satisfied that a 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 Ganesh Flour Mills and the right, title and interest of the Company in relation to the Ganesh Flour Mills which have vested in the Central Government under section 3, shall, instead of contiin a Govern nuing to vest in the Central Government, vest in that 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 in relation to the Ganesh Flour Mills 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 of the Ganesh Flour Mills and all the rights and liabilities of the Central Government in relation to the Ganesh Flour Mills shall, on and from the date of such vesting, be deemed to have been the rights and liabilities, respectively of the Government company.

The Company to be liable for certain prior liabilities.

- 6. (1) Every liability, other than the liability specified under sub-section (2), of the Company in relation to the Ganesh Flour Mills 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 Mills vest in a Government company, against the Government company.
- (2) Any liability in respect of the amount advanced after the date of taking over to the Company in relation to the Ganesh Flour Mills, together with interest due thereon and the wages, salaries and other dues of persons employed in the Ganesh Flour Mills in respect of any period after the date of taking over shall. on and from the appointed day, be the liability of the Central Government and shall be discharged by the Central Government or, for and on behalf of that Government, by the Government company as and when repayment of such amount becomes due or as and when such wages, salaries and other dues become 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 section of this Ordinance, no liability, other than the liability specified in sub-section (2), of the Company in relation to the Ganesh Flour Mills, in respect of a period prior to the appointed day shall be enforceable against the Central Government or the Government company, as the case may be;
- (b) no award, decree or order of any court, tribunal or other authority in relation to the Ganesh Flour Mills, passed after the appointed day, in respect of any matter, claim or dispute in relation to any matter, not being a matter referred to in sub-section (2), which arose before that date shall be enforceable against the Central Government or the Government company, as the case may be;
- (c) no liability incurred by the Company before the appointed day, for the confravention, in relation to the Ganesh Flour Mills, of any provision of law for the time being in force, shall be enforceable against the Central Government or the Government company, as the case may be.

CHAPTER III

PAYMENT OF AMOUNT

7. (1) For the transfer to, and vesting in, the Central Government, under Payment of section 3, of the Ganesh Flour Mills and the right, title and interest of the amount. company in relation to the Ganesh Flour Mills, there shall be given by Central Government to the Company in cash and in the manner specified in Chapter VI, an amount equal to a sum of one crore, fifty-seven lakhs and sixty-eight thousand rupees.

- (2) In addition to the amount specified in sub-section (1), there shall also be given to the Company by the Central Government an amount calculated at the rate of ten thousand rupees per annum for the deprivation of the Company of the management of the Ganesh Flour Mills for the period commencing on the date of taking over and ending with the appointed day.
- (3) The amount specified in sub-section (1) and the amount calculated in accordance with the provisions of sub-section (2) 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.

CHAPTER IV

MANAGEMENT, ETC., OF GANESH FLOUR MILLS

- 8. (1) On the appointed day, the general superintendence, direction, con-Managetrol and management of the affairs and business of the Ganesh Flour Mills shall,— ment.
 - (a) where a direction has been made by the Central Government Ganesh under sub-section (1) of section 5, vest in the Government company speci- Flour Mills. fied 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 is authorised to exercise and do in relation to the Ganesh Flour Mills.

- (2) The Central Government may appoint one or more individuals or a Government company as the Custodian or Custodians of the Ganesh Flour Mills in relation to which no direction has been made by it under sub-section (1) of section 5.
- (3) The Custodian or Custodians so appointed shall receive, from the funds of the Ganesh Flour Mills such remuneration as the Central Government may shall hold office during the pleasure of the Central Government.
- (4) The Custodian or Custodians of the Ganesh Flour Mills shall maintain an account of the Ganesh Flour Mills in such form and manner and under such conditions as may be prescribed and the provisions of the Companies Act, 1956, 1 of 1956 shall apply to the audit of the accounts so maintained as they apply to the audit of the accounts of a company.

Duty of persons in charge of of Ganesh Flour Mills to deliver assets, etc.

9. On the vesting in the Central Government or a Government company of the Ganesh Flour Mills, all persons in charge of the management of the Ganesh Flour Mills immediately before the date of such meeting, shall be bound management to deliver to the Central Government or the Government company or to such person or body of persons as the Central Government or the Government company may specify in this behalf, all assets, books of account, registers or other documents in their custody relating to the Ganesh Flour Mills.

Duty of persons to account for assets, etc.

- 10. (1) Every person who has, on the appointed day, in his possession or under his control any assets, books, documents or other papers relating to the Ganesh Flour Mills which has vested in the Central Government or a Government company under this Ordinance, and which belongs to the Company or would have so belonged if the Ganesh Flour Mills had not vested in the Central Government or the Government company, shall be liable to account for the said assets, books, documents and other papers to the Central Government or the Government company, as the case may be, and shall deliver them up to the Central Government or the Government company or to such person or body of persons as the Central Government or the Government company may specify in this behalf.
- (2) The Central Government may take or cause to be taken all necessary steps for securing possession of the Ganesh Flour Mills which has vested in it under section 3.

Duty of the furnish particulars.

11. The Company shall, within such period as the Central Government Company to may allow in this behalf, furnish to that Government a complete inventory of all its properties and assets as on the appointed day, pertaining to the Ganeshi Flour Mills which has vested in the Central Government under section 3, and for this purpose, the Central Government or the Government company shall afford the Company all reasonable facilities.

CHAPTER V

PROVISION RELATING TO EMPLOYEES OF THE GANESH FLOUR MILLS

Continuance of employees.

12. (1) Every person who has been, immediately before the appointed day. employed by the Company in connection with the Ganesh Flour Mills shall become,-

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

of 1947.

(b) where the Ganesh Flour Mills is directed, under sub-section (1) of section 5, to vest in a Government company, an employee of that 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 like 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 or 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 connection with the Ganesh Flour Mills 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.
- 13. (1) Where the Company has established a provident fund, superannua- Provident tion fund, welfare fund or other fund for the benefit of persons employed in fund and the Company, the monies relatable to the officers and other employees, whose other funds. 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.

(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

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

ment of 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 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 these 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.

- 15. (1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the Company an amount equal to the amounts specified in section 7.
- (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 thereafter the said deposit account shall be operated by the Commissioner.
- (3) 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.

Claims of priorities.

- 16. The claims arising out or matters specified in the Schedule 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 proportion 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.

Claims to be made to the Commissioner. 17. Every person having a claim against the Company in relation to the Ganesh Flour Mills shall prefer such claim before the Commissioner within thirty days from the specified date:

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.

Proof of claims.

- 18. (1) The Commissioner shall fix a date on or before which every claimant shall file the proof of his claim failing which he will 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 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 claiment 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 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 will hold his sittings and shall, for the purpose of making any investigation under this Ordinance, have the same powers as are vested in a

of 1908.

civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:-

- (a) the summoning and erforcing the attendance of any witness and examining him on oath;
- (b) the discovery any 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 of 1860. 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, 1974. 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 of Delhi and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

19. (1) 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 sums are 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.

- (2) 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, the Commissioner shall disburse such balance to the Company.
- 20. 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 payment of the claim being treated as an order for the refund of the revenue.

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

CHAPTER VII

MISCELLANEOUS

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

[PART II-

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

22. Every contract, entered into by the Company in relation to the Ganesh Flour Mills 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 and in ratifying such contract the Central Government or the Government company may make such alteration or modification therein as it may think fit:

Provided that the Central Government or the 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 interest of the Central Government or the 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.

23. Any person who,---

- (a) having in his possession, custody or control any property forming part of the Ganesh Flour Mills, 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 Ganesh Flour Mills; or
- (c) wilfully withholds or fails to furnish to the Central Government or the Government company or any person or body of persons specified by that Government or the Government company, as the case may be, any document relating to the Ganesh Flour Mills which may be in his possession, custody or control; or
- (d) wilfully fails to deliver to the Central Government any inventory of property and assets forming part of the Ganesh Flour Mills; or
- (e) fails to deliver to the Central Government or the Government company or any person or body of persons specified by that Government or the Government company, any assets, books of account, registers or other documents in his possession, custody or control relating to the Ganesh Flour Mills; or
- (f) wrongfully removes or destroys any property forming part of the Ganesh Flour Mills 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, or with fine which may extend to ten thousand rupees, or with both.

Offences by companies.

24. (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:

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.
- 25. (1) No suit, prosecution or other legal proceeding shall lie against the Protection Central Government or any officer or other employee of that Government or the of action Custodian or the Government company or any person authorised by that Govern- taken in ment or the Custodian or the Government company for anything which is in good good faith. faith done or intended to be done under this Ordinance.

- (2) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government or the Custodian or the Government company or any person authorised by that Government or the Custodian or 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.
- 26. (1) The Central Government may, by notification, direct that all or any Delegation of the powers exercisable by it under this Ordinance, other than the powers conferred by this section, sections 27 and 28, may also be exercised by such person or persons as may be specified in the notification.

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,
- 27. (1) The Central Government may, by notification, make rules for carry- Power to ing out the provisions of this Ordinance.

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, any 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 accounts as required by sub-section (4) of section 8;
 - (c) the manner in which the monies in any provident fund or other fund, referred to in sub-section (2) of section 13 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.

28. 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 section 16)

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) Deductions made from the salaries and wages of the employees for provident fund, Employees State Insurance Fund, contribution premium relating to Life Insurance Corporation of India or for any other purposes.

Category II—

Secured loans.

Category III_

Revenue, taxes, cesses, rates or other dues to the Central Government, a State Government, a local authority or a State Electricity Board.

Category IV-

Any other loans or dues.

ZAIL SINGH,

President.

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



असाधारण EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORIT?

 नई दिल्लो, शनिवार जनवरी 28, 1984/माघ 8, 1905 (शक) NEW DELHI, SATURDAY, JANUARY 28, 1984/MAGHA 8, 1905 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती ही 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 28th January, 1984/Magha 8, 1905 (Saka)

THE PREVENTION OF DAMAGE TO PUBLIC PROPERTY ORDINANCE, 1984

No. 3 of 1984

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

An Ordinance to provide for prevention of damage to public property 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. (1) This Ordinance may be called the Prevention of Damage to Public Short title, or Property Ordinance, 1984.

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 at once.

Definitions

- 2. In this Ordinance, unless the context otherwise requires,-
 - (a) "mischief" shall have the same meaning as in section 425 of the Indian Penal Code:

45 of 1860

- (b) "public property" means any property, whether immovable or movable (including any machinery) which is owned by, or in the possession of, or under the control of-
 - (i) the Central Government; or
 - (ii) any State Government; or
 - (iii) any local authority; or
 - (iv) any corporation established by, or under, a Central, Provincial or State Act; or
 - (v) any company as defined in section 617 of the Companies Act. 1956: or

(vi) any institution, concern or undertaking which the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the Central Government shall not specify any institution, concern or undertaking under this sub-clause unless such institution, concern or undertaking is financed wholly or substantially by funds provided directly or indirectly by the Central Government or by one or more State Governments, or partly by the Central Government and partly by one or more State Governments.

Mischief causing damage to public property.

- 3. (1) Whoever commits mischief by doing any act in respect of any public property, other than public property of the nature referred to in sub-section (2), shall be punished with imprisonment for a term which may extend to five years and with fine.
- (2) Whoever commits mischief by doing any act in respect of any public property being-
 - (a) any building, installation or other property used in connection with the production, distribution or supply of water, light, power or energy;
 - (b) any oil installations;
 - (c) any sewage works;
 - (d) any mine or factory;
 - (e) any means of public transportation or of tele-communications, or any building, installation or other property used in connection therewith,

shall be punished with rigorous imprisonment for a term which shall not be less than six months, but which may extend to five years and with fine:

Provided that the court may, for reasons to be recorded in its judgment, award a sentence of imprisonment for a term of less than six months.

4. Whoever commits an offence under sub-section (1) or sub-section (2) of section 3 by fire or explosive substance shall be punished with rigorous imprisonment for a term which shall not be less than one year, but which may public pro- extend to ten years and with fine:

Mischief damage to perty by fire or explosive substance.

Provided that the court may, for special reasons to be recorded in its judg-

5. No person accused or convicted of an offence punishable under section 3 Special or section 4 shall, if in custody, be released on bail or on his own bond unless provisions the prosecution has been given an opportunity to oppose the application for bail. such release.

ment, award a sentence of imprisonment for a term of less than one year.

6. The provisions of this Ordinance shall be in addition to, and not in Saving. derogation of, the provisions of any other law for the time being in force, and nothing contained in this Ordinance shall exempt any person from any proceeding (whether by way of investigation or otherwise) which might, apart from this Ordinance, be instituted or taken against him.

ZAIL SINGH,

President.

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

रजिस्ट्री सं े डी (डी)-72

REGISTERED No. D-(D)-72



असाधारण EXTRAORDINARY

भाग II-खण्ड 1 PART II-Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

सं0 7] नई दिल्ली, मंगलवार, फरवरी 14, 1984/माघ 25, 1905 (शक) No. 7] NEW DELHI, TUESDAY, FEBRUARY 14, 1984/MAGHA 25, 1905 (SAKA)

> इस भाग में भिन्न पृष्ठ संख्या दी जाती ही 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 14th February, 1984/Magha 25, 1905 (Saka)

THE INCHEK TYRES LIMITED AND NATIONAL RUBBER MANUFACTURERS LIMITED (NATIONALISATION) ORDINANCE, 1984

No. 4 of 1984

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

An Ordinance to provide for the acquisition and transfer of the undertakings of the Inchek Tyres Limited and the National Rubber Manufacturers 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 tyres, tubes and other rubber goods which are essential to the needs of the economy of the country and for matters connected therewith or incidental thereto.

WHEREAS the Inchek Tyres Limited and the National Rubber Manufacturers Limited had been engaged in the manufacture, production and distribution of articles mentioned in the First Schedule to the Industries (Development 55 of 1951 Regulation) Act, 1951, namely, tyres, tubes and other rubber goods;

AND WHEREAS the management of the undertakings of the Inchek Tyres Limited and the management of the undertakings of the National Rubber Manufacturers Limited were taken over by the Central Government under the provisions of the Industries (Development and Regulation) Act, 1951:

65 of 1951

AND WHEREAS for the purpose of securing the optimum utilisation of the available facilities for the manufacture, production and distribution of tyres, tubes and other rubber goods by the undertakings of the two companies, investment of a large amount is necessary;

AND WHEREAS it is necessary to acquire the undertakings of the Inchek Tyres Limited and the National Rubber Manufacturers Limited to enable the Central Government to have such investments made and to ensure that the interests of the general public are served by the continuance, by the undertakings of the 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 se sion 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

Definitions.

- 1. (1) This Ordinance may be called the Inchek Tyres Limited and National Rubber Manufacturers Limited (Nationalisation) Ordinance, 1984.
 - (2) It shall come into force at once.
 - 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) "existing Government company" means a Government company which is carrying on business on the appointed day;
 - (d) "new Government company" means a Government company formed and registered on or after the appointed day;
 - (e) "notification" means a notification published in the Official Gazette;
 - (f) "prescribed" means prescribed by rules made under this Ordinance;
 - (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 the Inchek Tyres Limited and the National Rubber Manufacturers Limited, being companies as defined in the Companies Act, 1956, and having their registered offices at "Leslie House", 19-Jawaharlal 1 of 1856. Nehru Road, Calcutta-700013:

1 of 1956.

(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 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 its undertakings, shall, by virtue of this Ordinance, stand transferred to, and shall vest in, the Central Government.

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

4. (1) The undertakings of each of the two companies referred to in section 3 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 councrship, possession, power or control of such company whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

General effect of

- (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, tribunal 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 relation to the company owning such property, in the First Schedule, and also out of the amounts referred to in 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 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 an existing Government company, or under section 7 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 to which it was granted 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 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 such 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 two companies vest under section 6 or section 7 in an existing, or a new, Government company, by or against such Government company.

Companies to be liable for certain prior liabilities.

- 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 vest in an existing, or a new, Government company, against such Government company.
- (2) Any liability arising in respect of materials supplied to either of the two companies after the management of its undertakings 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 existing, or new, Government company aforesaid, and shall be discharged by that Government or, as the case may be, the existing, or new, 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 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 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 vest in an existing, or a new, Government company, against such 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 vest in an existing, or a new, Government company, against such Government company.
- 6. (1) Notwichstanding anything contained in sections 3 and 4, and subject Power of to the provisions of section 7, the Central Government may, if it is satisfied that Central an existing Government company is willing to comply, or has complied, with Governsuch terms and conditions as that Government may think fit to impose, direct, ment to by notification, that the undertakings of each of the two companies and the right, vesting title and interest of each of the two companies in relation to its undertakings of the which have vested in the Central Government under section 3, shall, instead of undercontinuing to vest in the Central Government, vest in that existing Government takings company either on the date of the notification or on such earlier or later date of the (not being a date earlier than the appointed day) as may be specified in the two comnotification.

panies in an existing Govern-

- (2) Where the right, title and interest of the two companies in relation to their undertakings vest, under sub-section (1), in an existing Government company. 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 7, 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.
- 7. (1) Notwithstanding anything contained in sections 3 and 4, where the Transfer undertakings of each of the two companies have been directed under sub- of the unsection (1) of section 6, to vest in an existing Government company, the Central ings of Government may, if it is satisfied that a new Government compay is willing to the two comply, or has complied, with such terms and conditions as that Government companimay think fit to impose, declare, by notification, that the undertakings of each es from of the two companies and the right, title and interest of each of the two companies in relation to its undertokings be transformed to the companies in Govin relation to its undertakings be transferred to that new Government company, ernment and on the issue of such declaration, the right, title and interest of each of the company two companies in relation to its undertakings which had been directed under sub- to a new section (1) of section 6 to vest in an existing Government company, shall, instead Governof 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 two companies vest, under sub-section (1), in a new 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 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.

CHAPTER III

PAYMENT OF AMOUNTS

Payment of amount.

8. 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 its undertakings, there shall be paid by the Central Government to each of the two companies, in cash and in the manner specified in Chapter VI, an amount equal to the amount specified against the name of such company in the First Schedule.

Payment . of further amounts.

9. (1) For the deprivation of the two companies of the management of their undertakings during the period commencing on the date on which the undertakings of each such company was 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, there shall be paid by 65 of 1951 the Central Government to each of the companies in cash, an amount of rupees fifty thousand.

- (2) The amount referred to in section 8 and the amount specified in subsection (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 amounts is made by the Central Government to the Commissioner.
- (3) The amount referred to in sub-section (1) and the amount determined in accordance with the provisions of sub-section (2) shall be given by the Central Government to the two companies in addition to the amount specified in section 8.
- (4) For the removal of doubts, it is hereby declared that the liabilities of either of the two companies 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 8, and also from the amount specified in sub-section (1) and the amount determined under sub-section (2), in accordance with the rights and interests of the creditors of the two companies.

CHAPTER IV

MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE TWO COMPANIES

Management, etc., of the undertakings of the two companies.

- 10. 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 given by the Central Government under sub-section (1) of section 6, 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 7, vest, on and from the date of such declaration, in the new Government company specified therein,

and thereupon the existing, or new, Government company so specified, 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.

- 11. (1) On the vesting of the management of the undertakings of the two Duty of companies in an existing, or a new, Government company, all persons in persons charge of the management of the undertakings of either of the two companies in charge of manageimmediately before such vesting shall be bound to deliver to such Government ment of company, all assets, books of account, registers and other documents in their undercustody relating to the undertakings.
- (2) The Central Government may issue such directions as it may deem two comdesirable in the circumstances of the case to the existing, or new, Government panies to deliver company and such Government company may also, if it is considered necessary all assets, so to do, apply to the Central Government at any time for instructions as to etc. 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.
- 12. (1) Any person who has, on the appointed day, in his possession or Duty of under his control any assets, books, documents or other papers relating to the to acundertakings owned by either of the two companies, which have vested in the count Central Government or in an existing, or a new, Government company under for this Ordinance, shall be liable to account for the said assets, books, documents assets, and other papers to the Central Government or the existing, or new, Governtheir posment company, as the case may be, and shall deliver them to the Central Gov- session. ernment or the existing, or new, Government company or to such person or persons as the Central Government or the existing, or new, Government company may specify in this behalf.

- (2) The Central Government or the Government company 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 company 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 company aforesaid shall afford to the two companies all reasonable facilities.

CHAPTER V

PROVISIONS RELATING TO EMPLOYEES OF THE TWO COMPANIES

- 13. (1) Every person who has been, immediately before the appointed Continuday, employed in any undertaking of either of the two companies shall ance of - employees. become,-
 - (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 section 6 or under section 7, to vest, in an existing, or a new, 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 existing, or new, Government company, as the case may be, with the rights and privileges as to pension, gratuity and other matters, admissible to him immediately before the appointed day, as modified by the Memorandum of Settlement signed by the representatives of the management and the employees of each of the two companies on the 10th day of February. 1984, 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 14 of 1947 services of any officer or other person employed in any undertaking of either of the two companies, 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.

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 an existing or a new 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 shall vest in, the Central Government or the existing or new Government company, as the case may be.
- (2) The moneys 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 the existing, or the new, 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 amounts payable under sections 8 and 9 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.

- 16. (1) The Central Government shall, within thirty days from the specified Payment date, pay in cash to the Commissioner, for payment to each of the two by Central Govcompanies,-Commis-
 - (a) an amount equal to the amount specified against the name of such to the company in the First Schedule; and sioner.
 - (b) an amount equal to the amounts payable to each of the two companies 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) 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 existing, or new, Government com- Certain pany, as the case may be, shall be entitled to receive up to the specified date, to powers pany, as the case may be, shall be entitled to receive up to the specified date, to of Centhe exclusion of all other persons, any money due to either of the two companies tral Govin relation to its undertakings which have vested in the Central Government or the ernment existing, or new, Government company, as the case may be, and realised after the or existappointed day notwithstanding that the realisation pertains to a period prior to the ing, or appointed day.

new, Government

- (2) The Central Government, or the existing, or new, Government company, 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 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 existing, or new, 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 Claims regard to any of the matters specified in the Second Schedule pertaining to any to be undertakings owned by it, shall prefer such claim before the Commissioner within made to thirty days from the specified date:

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 arising out of the matters specified in the Second Schedule Priority 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;

of claims.

- (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.

Examination 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 Second Schedule and examine the same in accordance with such order.
- (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 rejection of claims.

- 21. (1) After examining the claims with reference to the priorities specified in the Second 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 poof 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 concerned company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, admit or reject by order in writing 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 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 45 of 1850 purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

2 of 1974

(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 Disburseof such claim shall be paid by the Commissioner to the person or persons to ment of whom such amount is due, and on such payment, the liability of each of the money by two companies in respect of such claim shall stand discharged.
- 23. (1) If, out of the moneys paid to him in relation to the undertakings of Disburseeither of the two companies, there is a balance left after meeting the liabilities ment of as specified in the Second Schedule, the Commissioner shall disburse such balance amounts to the concerned company.
- (2) Where the possession of any machinery, equipment or other property es. has vested in the Central Government or the existing, or new, 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 existing, or new, Government company, as the case may be, 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 two companies immediately before the appointed day.
- 24. Any money paid to the Commissioner which remains undisbursed or Undisunclaimed on the date immediately preceding the date on which the office of bursed 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 amount Central Government; but a claim to any money so transferred may be preferred to be deto the Central Government by the person entitled to such payment and shall posited be dealt with as if such transfer had not been made, and the order, if any, for with the the payment of the claim being treated as an order for the refund of revenue.

revenue account.

compani-

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 riding Ordinance, or in any decree or order of any court, tribunal or other authority. effect,

26. Every contract entered into by either of the two companies in relation Contrato any of its undertakings which has vested in the Central Government under ets to section 3 for any service, sale or supply, and in force immediately before the cease to appointed day, shall, on and from the expiry of a period of one hundred and have efeighty days from such day, cease to have effect unless such contract is, before feet unthe expiry of that period, ratified, in writing, by the Central Government or the existing, or new, Government company and in ratifying such contract, the the Cen-Central Government or the existing, or new, Government company may make tral Govsuch alteration or modification therein as it may think fit:

have over-

ernment or existing, or new. Government company.

Provided that the Central Government or the existing, or new, 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 existing, or new, Government company; 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 existing, or new, Government company or any person or body of persons specified by that Government or 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 existing, or new, Government company, as the case may be, 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 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.

Offences by companies, 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 Protec-Central Government or the existing, or new, Government company or any officer tion of or other employee of that Government or the Government company or any action person authorised by that Government or Government company for anything in good which is in good faith done or intended to be done under this Ordinance.

faith.

- (2) No suit, or other legal proceeding, shall lie against the Central Government or the existing, or new, Government company, or any officer or other employee of that Government or Government company or any person authorised by that Government or 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.
- 30. (1) The Central Government, may, by notification, direct that all or Delegaany of the powers exercisable by it under this Ordinance, other than the powers tion of conferred by this section, section 31 or 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.
- 31. (1) The Central Government may, by notification, make rules for Power 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 manner in which the moneys in any provident fund or other fund referred to in section 14 shall be dealt with;
 - (c) 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.
 - 32. If any difficulty arises in giving effect to the provisions of this Ordinance, Power the Central Government may, by order, not inconsistent with the provisions of to rethis Ordinance, remove the difficulty:

move difficulties.

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), 8 and 16(1)]

Sl. No.	Name of the Company	Amount (Rupees in lakhs)
1.	Inchek Tyres Limited	330.40
2.	National Rubber Manufacturers Limited	159.64

THE SECOND SCHEDULE

[See sections 18, 19, 20(1), 21(1) and 23(1)]

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE TWO COMPANIES

Category I-

- (a) Wages, salaries and other dues payable to the employees of the companies.
- (b) Arrears in relation to contributions to be made by the companies 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.

Post-take-over management period:

Category II-

Principal amount of loans advanced by-

- (a) the Central Government;
- (b) a State Government;
- (c) banks and public financial institutions;
- (d) any other sources.

Category III-

- (a) Any credits availed of by the companies for the purpose of carrying on any trading or manufacturing operations, other than the liabilities specified in sub-section (2) of section 5.
- (b) Any dues of State Electricity Boards or other Government and semi-Government institutions against supply of goods or services, other than the liabilities specified in sub-section (2) of section 5.
 - (c) Arrears of interest on loans and advances.

Category IV-

- (a) Revenue, taxes, cesses, rates or other dues to Central Government, a State Government or any local authority.
 - (b) Any other dues.

Pre-take-over management period:

Category V-

Principal amount of secured loans advanced by-

- (a) the Central Government;
- (b) a State Government;
- (c) banks and public financial institutions.

Category VI-

Principal amount of unsecured loans advanced by-

- (a) the Central Government;
- (b) a State Government;
- (c) banks and public financial institutions;
- (d) any other sources.

Category VII-

- (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 and 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 Central Government, a State Government or any local authority.
 - (e) Any other loans or dues.

ZAIL SINGH,

President.

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



असाधारण

EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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नई दिल्ली, बृहस्पतिवार, अप्रैल 5, 1984/चँव 16, 1906 (शफ)

No. 25]

NEW DELHI, THURSDAY, APRIL 5, 1984/CHAITRA 16, 1906 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या वी जाती है जिससे कि यह असग 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 April, 1984/Chaitra 16, 1906 (Saka)

THE NATIONAL SECURITY (AMENDMENT) ORDINANCE, 1984

No. 5 of 1984

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

An Ordinance to amend the National Security Act, 1980, in its application to the State of Punjab and the Union territory of Chandigarh.

Whereas the Council of States 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 National Security (Amendment) Short Ordinance, 1984.
 - (2) It shall come into force at once.

Short title and commencement.

[PART II-

Amendment of Act 65 of 1980 in its application to Punjab and Chandigarh.

2. The National Security Act, 1980 (hereinafter referred to as the principal Act) shall, in its application to the State of Punjab and the Union territory of Chandigarh, have effect subject to the amendments specified in sections 3 to 5.

Amendment of section 3.

- 3. In sub-section (4) of section 3 of the principal Act, in the proviso,—
 - (a) for the words "ten days", the words "fifteen days" shall be substituted:
- (b) for the words "fifteen days", the words "twenty days" shall be substituted.

Amendment of section 8.

4. In section 8 of the principal Act, in sub-section (1), for the words "ten days", the words "fifteen days" shall be substituted.

Insertion of new section 14A.

5. In the principal Act, after section 14, the following section shall be inserted, namely:-

Circumstances in which persons may be detained for periods longer than three months without obtaining the opinion of Advisory Boards.

- '14A. (1) Notwithstanding anything contained in the foregoing provisions of this Act, any person in respect of whom an order of detention has been made under this Act at any time before the 3rd day of April, 1985 may be detained without obtaining the opinion of the Advisory Board for a period longer than three months, but not exceeding six months, from the date of his detention where such person had been detained with a view to preventing him from acting, in any disturbed area, in any manner prejudicial to-
 - (a) the defence of India; or
 - (b) the security of India; or
 - (c) the security of the State; or
 - (d) the maintenance of public order; or
- (e) the maintenance of supplies and services essential to the community.

Explanation 1.—The provisions of the Explanation to sub-section (2) of section 3 shall apply for the purposes of this sub-section as they apply for the purposes of that sub-section.

Explanation 2.—In this sub-section, "disturbed area" means area which is for the time being declared by notification under section 3 of the Punjab Disturbed Areas Act, 1983, or under section 3 of the 32 of 1983 Chandigarh Disturbed Areas Act, 1983, to be a disturbed area.

- (2) In the case of any person to whom sub-section (1) applies, sections 10 to 13 shall have effect subject to the following modifications, namely:-
 - (a) in section 10, for the words "shall, within three weeks", the words "shall, within four months and two weeks" shall be substituted;

(b) in section 11,—

- (i) in sub-section (1), for the words "seven weeks", the words "five months and three weeks" shall be substituted;
- (ii) in sub-section (2), for the words "detention of the person concerned", the words "continued detention of the person concerned" shall be substituted;
- (c) in section 12, for the words "for the detention", at both the places where they occur, the words "for the continued detention" shall be substituted;
- (d) in section 13, for the words "twelve months", the words "two years" shall be substituted.'.

ZAIL SINGH, President.

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

REGISTERED No. D-(D)-72



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EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

प्राधिकार से प्रकाशित
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सं∘ 53] No. 53] नई दिल्ली, बृहस्पतिवार, जून 21, 1984/ जेंध्ठ 31, 1906 (शक)

NEW DELHI, THURSDAY, 21 JUNE, 1984/JYAISTHA 31, 1906 (SAKA)

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MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 21st June, 1984 Jyaistha 31, 1906 (Saka)

THE NATIONAL SECURITY (SECOND AMENDMENT) ORDINANCE, 1984

No. 6 of 1984

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

An Ordinance further to amend the National Security Act, 1980.

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 National Security (Second Amendment) Ordinance, 1984.

Short title and commencement. (2) It shall come into force at once.

Insertion of new section 5A.

2. In the National Security Act, 1980 (hereinafter referred to as the prin- 65 of 1980. cipal Act), after section 5, the following section shall be inserted, namely:—

Grounds of detention severable.

- "5A. Where a person has been detained in pursuance of an order of detention [whether made before or after the commencement of the National Security (Second Amendment) Ordinance, 1984] under section 3 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds and accordingly—
 - (a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—
 - (i) vague,
 - (ii) non-existent,
 - (iii) not relevant,
 - (iv) not connected or not proximately connected with such person, or
 - (v) invalid for any other reason whatsoever,

and it is not, therefore, possible to hold that the Government of officer making such order would have been satisfied as provided in section 3 with reference to the remaining ground or grounds and made the order of detention;

(b) the Government or officer making the order of detention shall be deemed to have made the order of detention under the said section after being satisfied as provided in that section with reference to the remaining ground or grounds.".

Amendment of section 14.

- 3. In section 14 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—
- "(2) The expiry or revocation of a detention order (hereafter in this sub-section referred to as the earlier detention order) shall not [whether such earlier detention order has been made before or after the commencement of the National Security (Second Amendment) Ordinance, 19841 bar the making of another detention order (hereafter in this sub-section referred to as the subsequent detention order) under section 3 against the same person:

Provided that in a case where no fresh facts have arisen after the expiry or revocation of the earlier detention order made against such person, the maximum period for which such person may be detained in pursuance of the subsequent detention order shall, in no case, extend beyond the expiry of a period of twelve months from the date of detention under the earlier detention order."

4. In the principal Act as applicable to the State of Punjab and the Union Amendterritory of Chandigarh, in section 14A, in sub-section (2),-

section 14A.

- (i) in the opening portion, for the words and figures "sections 10 to 13", the words and figures "sections 10 to 14" shall be substituted;
 - (ii) after clause (d), the following clause shall be inserted, namely:-
 - (e) in section 14, in the proviso to sub-section (2), for the words "twelve months", the words "two years" shall be substituted.'.

ZAIL SINGH,

President.

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



असाधारण

EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं056)

नई दिल्लो, बृहस्पतिवार, जून 28, 1984/अषड 7, 1906 (शक)

No' 56)

NEW DELHI, THURSDAY, JUNE 28, 1984/ASADHA 7, 1906 (SAKA)

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 28th June, 1984/Asadha 7, 1906 (Saka)

THE HOOGHLY DOCKING AND ENGINEERING COMPANY LIMITED (ACQUISITION AND TRANSFER OF UNDER-TAKINGS) ORDINANCE, 1984

No. 7 of 1984

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

An Ordinance to provide for the acquisition and transfer of the undertakings of the Hooghly Docking and Engineering Company Limited with a view to securing the better utilisation of the available infrastructure thereof to modernise and increase the capacity for shipbuilding and ship repairing so as to reduce the import of ships, vessels and craft and to augment the production of grey iron, non-ferrous and alloy castings by the said undertakings so as to subserve the interests of the general public by ensuring the continued supply of the said articles which are essential to the needs of the economy of the country, and for matters connected therewith and incidental thereto.

WHEREAS the Hooghly Docking and Engineering Company Limited is, through its undertakings, engaged in shipbuilding, ship repairing, general engineering and other activities;

AND WHEREAS the Company has the capacity and infrastructure to effect an increase in the country's capacity to manufacture ships and other vessels and craft;

AND WHEREAS an increase in the production of such vessels and craft would reduce the need of the country to make imports of such vessels and craft and would thereby enable the country to save foreign exchange;

AND WHEREAS the Company is also engaged in the production of grey iron, non-ferrous and alloy castings which are essential to the needs of the economy of the country;

AND WHEREAS the Company had been suffering heavy losses for a number of years mainly due to lack of fresh investment and modernisation;

AND WHEREAS further investment of substantial sums of money is needed to run and modernise the undertakings of the Company: but in view of the serious adverse financial condition of the Company it is not in a position to secure such investment;

AND WHEREAS the liquidation of the Company, by reason of its inability to pay its debts, would prejudicially affect the country's capacity to manufacture such ships, vessels and craft and would thereby be prejudicial to the public interest;

AND WHEREAS in view of the position aforesaid it is necessary to acquire the undertakings of the said Company to enable the Central Government to make necessary investments for securing the proper utilisation of the available facilities for shipbuilding and ship repairing (including the production of vessels and craft) and also for the production of grey iron, non-ferrous and alloy castings 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

1. (1) This Ordinance may be called the Hooghly Docking and Short title Engineering Company Limited (Acquisition and Transfer of Undermencement. takings) Ordinance, 1984.

⁽²⁾ It shall come into force at once.

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

Definitions.

- (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 the Hooghly Docking and Engineering Company Limited, being a company as defined in the Companies Act, 1956, and having its registered office at 12, Mission Row, Calcutta-700001;
- (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, 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 vested in, the Central Government.

Transfer to, and vesting 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.

1 of 1956.

1 of 1956.

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, tribunal or other authority restricting the use of such properties in any manner shall be deemed to have been withdrawn.
- (3) Every mortagagee 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 and also out of the amount 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 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 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.

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.

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

- (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.
- 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.

Transfer of under-takings of the Company from an existing Government company to a new Government company.

- (2) Where the right, title and interest of the existing Government company in relation to the undertakings of the Company vest under subsection (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, other than the liability specified in sub-section (2). 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.
- (2) Any liability arising in respect of advances from customers for shipbuilding and non-shipbuilding orders shall, on and from the appointed day, be the liability of the Central Government or of the existing, or new,

Company to be liable for certain prior liabilities. Government company aforesaid, and shall be discharged by that Government or, as the case may be, the existing, or new, Government company.

- (3) 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 on or 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 AMOUNTS

Payment of amount.

8. For the transfer to, and vesting in, the Central Government, under section 3, of the undertaking 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 pecified in Chapter VI, an amount of rupees six hundred and fifty lakhs.

Payment of further amount.

- 9. (1) The amount specified in section 8 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 8.
- (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 8, 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

10. 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,—

Management, etc., of the under-takings of the Company.

- (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,

and thereupon the existing, or new, Government company, 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.

11. (1) On the vesting of the management of the undertakings of the Company in the existing, or new, Government company, all persons in charge of the management of the undertakings of the Company immediately before such vesting, shall be bound to deliver to such Government company, 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 of the Company 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 and such Government company 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 of the undertakings owned by the Company, which have vested in the Central Government or in the existing, or new, Government company under this Ordinance, and which belong 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 the Government company or to such person or persons as the Central Government or the 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 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 existing, or new, Government company shall afford to the Company all reasonable facilities.

CHAPTER V

PROVISIONS RELATING TO THE EMPLOYEES OF THE COMPANY

Continuance of employees.

- 13. (1) Every person who has been, immediately before the appointed day, employed in any of the undertakings of the Company shall become,-
 - (a) on and from the appointed day, an employee of the Central Government; and
 - (b) where the undertakings of the Company are vested in an existing, or a new, Government company, an employee of that company on and from the date of such vesting,

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:

Provided that, unless any extension of service is granted to such person after the appointed day in accordance with the rules in that behalf in force for the time being, such person shall retire compulsorily from the service of the Central Government or the existing, or new. Government company, as the case may be,-

- (a) where he has attained or attains the age of fifty-eight years before, or on, or within a period of three months from, the appointed day, on the date of expiry of the said period of three months or on the date on which he shall retire compulsorily from service in accordance with the conditions of service applicable to him immediately before the appointed day, whichever date is earlier:
- (b) in any other case, on his attaining the age of fifty-eight years.
- (2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the 14 of 1947. transfer of the services of any officer or other person employed in any undertaking of the Company to the Central Government or the exist? ing, or new, 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.

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 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 fund, stand transferred to, and shall vest in, the Central Government or the Government company, as the case may be.

Provident fund and other funds.

42) 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 that company in such manner as may be prescribed.

CHAPTER VI

COMMISSIONER OF PAYMENTS

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

Appointment of 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
 - and 1
 - (a) an amount equal to the amount specified in section 8, and
 - (b) an 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.

Payment by the Central Government to the Commissioner. (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
Government
or the
Government
company.

- 17. (1) Central Government or the existing, or new, Government company, as the case may be, snall be entitled to receive up to the specinea 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 such 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 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 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.

Claims to be made to the Commissioner. 18. (1) Every person having a claim against the Company with regard to any of the matters specified in the Schedule pertaining to the undertakings of the Company shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commisioner 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,

- 19. (1) 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.

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 priori- Admission ties 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.

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:-
 - (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:

5 of 1908.

> 45 of 1860. of 974.

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 Company is situated 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. Disbursement of amounts to the Company.

- 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 such claim shall stand discharged.
- 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 the 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 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.

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

CHAPTER VII

MISCELLANEOUS

Ordinance to have overriding 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.

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

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 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 the 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 the 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 or other employee of that Government or the existing, or new Government company or other person authorised by the Central Government or the Government company for anything which is in good faith done or intended to be done under this Ordinance.

Protection 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 existing, or new, Government company 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.
- 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, section 31 and section 32, may also be exercised by such person or persons as may be specified in the notification.

Delegation of powers.

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

29. Any person who,-

Penalties.

- (a) having in his possession, custody or control any property forming part of the undertakings of the Company, wrongfully withholds such property from the Central Government or the existing, or new, 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 existing, or new, Government company or any person or body of persons specified by that Government or the 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 existing, or new, Government company or to any person or body of persons specified by that Government or the Government company, any

assets, books of account, registers or other documents in his possession, custody or control, relating to the undertakings of the Company;

- (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 be ieve 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.

Offences by companies.

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:

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.

Power to make rules.

- 31. (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 he 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 manner in which the monies in any provident fund or other fund under section 14 shall be dealt with;
 - (c) 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.

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:

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, 20, 21 and 23)

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.

Category II_

Loans and interests for which Government of India have given guarantees to the public financial institutions.

Category III_

Secured loans with interest advanced by-

- (a) public financial institutions;
- (b) banks.

Category IV-

Statutory dues.

Category V-

Unsecured loans with interest advanced by the public financial institutions, banks or other creditors.

Category VI-

Any credit availed of by the Company for the purpose of carrying on any trading or manufacturing operations.

Category VII-

Any other loans or dues.

ZAIL SINGH,
President.

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

REGISTERED No. D-(D)-72



असाधारण EXTRAORDINARY

भाग II—हण्ड । PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

No. 57]

नई दिल्ली, शुक्ररवार, जुल(ई 13, 1984/आए।इर 22, 1906 NEW DELHI, FRIDAY, JULY 13, 1984/ASADHA 22, 1906

इस भाग में भिन्न पूछ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रता 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 July, 1984/Asadha 22, 1906 (Saka)

THE CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION OF SMUGGLING ACTIVITIES (AMEND-MENT) ORDINANCE, 1984

No. 8 of 1984

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

An Ordinance further to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

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 Conservation of Foreign Exchange Short and Prevention of Smuggling Activities (Amendment) Ordinance, 1984.

(2) It shall come into force at once.

Short title and commencement.

Substitution of new section for section 9.

Cases in which and circumstances under which persons may be aetained for longer than three months without obtaining opinion of Advisory Board.

- 2. In the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, for section 9, the following section shall be substituted, 52 of 1974. namely:-
 - '9. (1) Notwithstanding anything contained in this Act, any person (including a foreigner) in respect of whom an order of detention is made under this Act may be detained without obtaining, in accordance with the provisions of sub-clause (a) of clause (4) of article 22 of the Constitution, the opinion of an Advisory Board for a period longer than three months but not exceeding six months from the date of his detention, where the order of detention has been made against such person with a view to preventing him from smuggling goods or abetting the smuggling of goods or engaging in transporting or concealing or keeping smuggled goods and the Central Government or any officer of the Central Government, not below the rank of an Additional Secretary to that Government, specially empowered for the purposes of this section by that Government, is satisfied that such person-
 - (a) smuggles or is likely to smuggle goods into, out of or through any area highly vulnerable to smuggling; or
 - (b) abets or is likely to abet the smuggling of goods into, out of or through any area highly vulnerable to smuggling; or
 - (c) engages or is likely to engage in transporting or concealing or keeping smuggled goods in any area highly vulnerable to smuggling,

and makes a declaration to that effect within five weeks of the detention of such person.

Explanation 1.—In this sub-section, "area highly vulnerable to smuggling" means - 2001 32 palward 2001, that that and taken were

- (i) the Indian customs waters contiguous to the States of Gujarat, Karnataka, Kerala, Maharashtra and Tamil Nadu and the Union territories of Goa, Daman and Diu and Pondicherry;
 - (ii) the inland area fifty kilometres in width from the coast of India falling within the territories of the States of Gujarat, Karnataka, Kerala, Maharashtra and Tamil Nadu and the Union territories of Goa, Daman and Diu and Pondicherry;
- (iii) the inland area fifty kilometres in width from the India-Pakistan border in the States of Gujarat, Jammu and Kashmir, Punjab and Wieners Puriament is not in session and the Presignation of the
- (iv) the customs airport of Delhi; and
- (v) such further or other Indian customs waters, or inland area not exceeding one hundred kilometres in width from any other coast or border of India, or such other customs station, as the Central Government may, having regard to the vulnerability of such waters, , area or customs station, as the case may be, to smuggling, by notification in the Official Gazette, specify in this behalf.

Explanation 2.—For the purposes of Explanation 1, "customs airport" and "customs station" shall have the same meaning as in clauses (10) and (13) of section 2 of the Customs Act, 1962, respectively.

- (2) In the case of any person detained under a detention order to which the provisions of sub-section (1) apply, section 8 shall have effect subject to the following modifications, namely:—
 - (i) in clause (b), for the words "shall, within five weeks", the words "shall, within four months and two weeks" shall be substituted;
 - (ii) in clause (c),—
 - (1) for the words "the detention of the person concerned", the words "the continued detention of the person concerned" shall be substituted;
 - (2) for the words "eleven weeks", the words "five months and three weeks" shall be substituted;
 - (iii) in clause (f), for the words "for the detention", at both the places where they occur, the words "for the continued detention" shall be substituted.'

ZAIL SINGH,

President,

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

REGISTERED No. D-(D)-72



असाधारण EXTRAORDINARY

भाग II-खण्ड 1 PART II-Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

नई दिल्ली, शनिवार, जुलाई 14, 1984/म्रासाढ़ा 23, 1906 (शक) सं0 58 NEW DELHI, SATURDAY, JULY 14, 1984/ASADHA 23, 1906 (SAKA) No. 58]

इस भाग में भिन्न एक 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 14th July, 1984/Asadha 23, 1906 (Saka)

THE TERRORIST AFFECTED AREAS (SPECIAL COURTS) ORDINANCE, 1984

No. 9 OF 1984

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

An Ordinance to provide for the speedy trial of certain offences in terrorist affected areas 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 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 Terrorist Affected Areas (Special Short title, Courts) Ordinance, 1984.

commence-

- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force at once.

Definitions.

- 2. (1) In this Ordinance, unless the context otherwise requires,—
 - (a) "Code" means the Code of Criminal Procedure, 1973;

2 of 1974

- (b) "High Court", in relation to a Special Court, means the High Court within the territorial limits of whose jurisdiction such Special Court is proposed to be, or is, established;
- (c) "judicial zone" means a judicial zone constituted under sub-section (1) of section 3:
- (d) "notification" means a notification published in the Official Gazette;
- (e) "Public Prosecutor" means a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor appointed under section 9 and includes any person acting under the directions of the Public Prosecutor;
- (f) "scheduled offence" means an offence specified in the Schedule being an offence committed in a terrorist affected area;
- (g) "Special Court" means a Special Court or an Additional Special Court established under section 4;
- (h) "terrorist" means a person who indulges in wanton killing of persons or in violence or in the disruption of services or means of communications essential to the community or in damaging property with a view to—
 - (i) putting the public or any section of the public in fear; or
- (ii) affecting adversely the harmony between different religious, racial, language or regional groups or castes or communities; or
 - (iii) coercing or overawing the Government established by law;
- (iv) endangering the sovereignty and integrity of India;
 - (i) "terrorist affected area" means an area declared as a terrorist affected area under section 3;
 - (j) words and expressions used but not defined in this Ordinance and defined in the Code shall have the meanings respectively assigned to them in the Code.
- (2) Any reference in this Ordinance to the Code or any provision thereof shall, in relation to an area in which the Code or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.
- Declaration of terrorist affected area
- 3. (1) If the Central Government is of the opinion that offences of the nature specified in the Schedule are being committed in any area by terrorists on such a scale and in such a manner that it is expedient for the purpose of coping with the activities of such terrorists to have recourse to the provisions of this Ordinance, it may, by notification,—
 - (a) declare such area to be a terrorist affected area; and
 - (b) constitute such area into a single judicial zone or into as many judicial zones as it may deem fit.

(2) A notification issued under sub-section (1) in respect of an area shall specify the period during which the area shall, for the purposes of this Ordinance, be a terrorist affected area, and where the Central Government is of the opinion that terrorists had been committing in that area, from a date earlier than the date of issue of the notification, offences of the nature specified in the Schedule on such a scale and in such a manner that it is expedient to commence the period specified in the notification from such earlier date, the period specified in the notification may commence from that date:

Provided that_

(a) no period commencing from a date earlier than six months from the date of publication of the notification shall be specified therein; and

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(b) so much of the period specified in such notification as is subsequent to the date of publication of the notification shall not, in the first instance, exceed six months, but the Central Government may, by notification, extend such period from time to time by any period not exceeding six months at any one time, if the Central Government, having regard to the activities of terrorists in such area, is of the opinion that it is expedient so to do.

Explanation.—For the avoidance of doubts, it is hereby declared that the period specified in a notification issued under this section may commence from a date earlier than the date of commencement of this Ordinance.

4. (1) For the purpose of providing for speedy trial of scheduled offences Estabcommitted in a judicial zone, the Central Government may establish, by notifica- lishment tion, a Special Court in relation to such judicial zone-

Courts.

- (a) within such judicial zone; or
 - (b) if the Central Government having regard to the exigencies of the situation prevailing in such judicial zone considers it expedient so to do, at any place outside such judicial zone but within the State in which such judicial zone is situated.
- (2) Notwithstanding anything contained in sub-section (1), if, having regard to the exigencies of the situation prevailing in a State, the State Government is of the opinion that it is expedient to establish in relation to a judicial zone. or in relation to two or more judicial zones, in the State, an Additional Special Court outside the State, for the trial of such scheduled offences committed in the judicial zone or judicial zones, the trial whereof within the State-
 - (a) is not likely to be fair or impartial or completed with utmost dispatch; or
- (b) is not likely to be feasible without occasioning a breach of peace or grave risk to the safety of the accused, the witnesses, the Public Prosecutor and the Judge or any of them; or
 - (c) is not otherwise in the interests of justice,

the State Government may request the Central Government to establish in relation to such judicial zone or judicial zones an Additional Special Court outside the State and thereupon the Central Government may, after taking into account the information furnished by the State Government and making such inquiry, if any, as it may deem fit, establish, by notification. such Additional Special Court at such place outside the State as may be specified in the notification.

Composition and appointment of Judges of Special Courts,

- 5. (1) A Special Court shall be presided over by a Judge to be appointed by the Central Government with the concurrence of the Chief Justice of the High Court.
- (2) The Central Government may also appoint, with the concurrence of the Chief Justice of the High Court, Additional Judges to exercise jurisdiction in a Special Court.
- (3) A person shall not be qualified for appointment as a Judge or an Additional Judge of a Special Court unless he is immediately before such appointment a Sessions Judge or an Additional Sessions Judge in any State.
- (4) For the removal of doubts, it is hereby provided that the attainment by a person, appointed as a Judge or an Additional Judge of a Special Court, of age of superannuation under the rules applicable to him in the Service to which he belongs, shall not affect his continuance as such Judge or Additional Judge.
- (5) Where any Additional Judge or Additional Judges is, or are, appointed in a Special Court, the Judge of the Special Court may, from time to time, by general or special order, in writing, provide for the distribution of business of the Special Court among himself and the Additional Judge or Additional Judges and also for the disposal of urgent business in the event of his absence or the absence of any Additional Judge.

Place of sitting.

6. A Special Court may, if it considers it expedient or desirable so to do, sit for any of its proceedings at any place, other than the ordinary place of its sitting, in the State in which it is established:

Provided that if the Public Prosecutor certifies to the Special Court that it is in his opinion necessary for the protection of the accused or any witness or otherwise expedient in the interests of justice that the whole or any part of the trial should be held at some place other than the ordinary place of its sitting, the Special Court may, after hearing the accused, make an order to that effect unless, for reasons to be recorded in writing, the Special Court thinks fit to make any other order.

Jurisdiction of Special Court. 7. (1) Notwithstanding anything contained in the Code or in any other law, a scheduled offence committed in a judicial zone in a State at any time during the period during which such judicial zone is, or is part of, a terrorist affected area shall be triable, whether during or after the expiry of such period, only by the Special Court established for such judicial zone in the State:

Provided that where the period specified under sub-section (2) of section 3 as the period during which an area declared by notification under sub-section (1) of that section to be a terrorist affected area commences from a date earlier than the date on which such notification is issued, then—

- (a) nothing in the foregoing provisions of this sub-section shall apply to a scheduled offence committed in such area in which the whole of the evidence for the prosecution has been taken before the date of issue of such notification; and
- (b) all other cases involving scheduled offences committed in such area and pending before any court immediately before the date of issue of such notification shall stand transferred to the Special Court having jurisdiction under this section and the Special Court to which such proceedings stand transferred shall proceed with such cases from the stage at which they were pending at that time.

(2) Notwithstanding anything contained in sub-section (1), if in respect of a case involving a scheduled offence committed in any judicial zone in a State, the Central Government, having regard to the provisions of sub-section (2) of section 4 and the facts and circumstances of the case and all other relevant factors, is of the opinion that it is expedient that such offence should be tried by the Additional Special Court established in relation to such judicial zone outside the State, the Central Government may make a declaration to that effect:

Provided that no such declaration shall be made unless the State Government has forwarded to the Central Government a report in writing containing a request for making of such declaration.

Explanation.—Where an Additional Special Court is established in relation to two or more judicial zones, such Additional Special Court shall be deemed, for the purposes of this sub-section, to have been established in relation to each of such judicial zones.

- (3) A declaration made under sub-section (2) shall not be called in question in any court.
- (4) Where any declaration is made in respect of any offence committed in a judicial zone in a State, any prosecution in respect of such offence shall be instituted only in the Additional Special Court established in relation to such judicial zone outside the State, and if any prosecution in respect of such offence is pending immediately before such declaration in any other court, the same shall stand transferred to such Additional Special Court and such Additional Special Court shall proceed with such case from the stage at which it was pending at that time.
- 8. (1) When trying any scheduled offence, a Special Court may also try any offence other than the scheduled offence with which the accused may, under Courts the Code, be charged at the same trial if the offence is connected with the with resscheduled offence.

Power of pect to other offences.

- (2) If, in the course of any trial under the Ordinance, it is found that the accused person has committed any offence, the Special Court may, whether such offence is or is not a scheduled offence, convict such person of such offence and pass any sentence authorised by law for the punishment thereof.
- 9. (1) For every Special Court, the Central Government shall appoint a Public person to be the Public Prosecutor and may appoint one or more persons to be the Additional Public Prosecutor or Additional Public Prosecutors:

Provided that the Central Government may also appoint for any case or class of cases a Special Public Prosecutor.

- (2) A person shall be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section only if he has been in practice as an Advocate for not less than seven years or has held any post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.
- (3) Every person appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code, and the provisions of the Code shall have effect accordingly.

Procedure and powers of Special Courts.

- 10. (1) A Special Court may take cognizance of any scheduled offence, without the accused being committed to it for trial, upon receiving a complaint of facts which constitute such offence or upon a police report of such facts.
- (2) Where a scheduled offence is punishable with imprisonment for a term not exceeding three years or with fine or with both, a Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code, try the offence in a summary way in accordance with the procedure prescribed in the Code and the provisions of sections 263 to 265 of the Code, shall, so far as may be, apply to such trial:

Provided that when, in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is undesirable to try it in a summary way, the Special Court shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the Code for the trial of such offence and the said provisions shall apply to and in relation to a Special Court as they apply to and in relation to a Magistrate:

Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding two years.

- (3) A Special Court may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relative to the offence and to every other person concerned whether as principal or abettor in the commission thereof, and any pardon so tendered shall, for the purposes of section 308 of the Code, be deemed to have been tendered under section 307 thereof.
- (4) Subject to the other provisions of this Ordinance, a Special Court shall, for the purpose of trial of any offence, have all the powers of a Court of Session and shall try such offence as if it were a Court of Session so far as may be in accordance with the procedure prescribed in the Code for the trial before a Court of Session.
- (5) Subject to the other provisions of this Ordinance, every case before an Additional Special Court shall be dealt with as if such case had been transferred under section 406 of the Code to such Additional Special Court.
- 11. Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular
- case be transferred from one Special Court to another Special Court.
- 12. (1) Notwithstanding anything contained in the Code, all proceedings before a Special Court shall be conducted in camera;

Provided that where the Public Prosecutor so applies, any proceedings or part thereof may be held in open court.

(2) A Special Court may, on an application made by a witness in any proceedings before it or by the Public Prosecutor in relation to such witness or on its own motion, take such measures as it deems fit for keeping the identity and address of the witness secret.

Power of Supreme Court to transfer case.

Protection of witnesses.

- (3) In particular and without prejudice to the generality of the provisions of sub-section (2), the measures which a Special Court may take under that sub-section may include—
- (a) the holding of the proceedings at a protected place;
 - (b) the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public;
 - (c) the issuing of any directions for securing that the identity and addresses of the witnesses are not disclosed.
- (4) Any person who contravenes any direction issued under sub-section (2) shall be punishable with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees.
- 13. Where after taking cognizance of any offence, a Special Court is of Power to opinion that the offence is not a scheduled offence, it shall, notwithstanding that transfer it has no jurisdiction to try such offence, transfer the case for trial of such offence to any court having jurisdiction under the Code and the court to which the case courts. is transferred may proceed with the trial of the offence as if it has taken cognizance of the offence.

cases to regular

14. (1) Notwithstanding anything contained in the Code, an appeal shall lie Appeal. as a matter of right from any judgment, sentence or order, not being interlocutory order, of a Special Court to the Supreme Court both on facts and on law.

- (2) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order of a Special Court.
- (3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from:

Provided that the Supreme Court may entertain an 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 of thirty days.

15. (1) Notwithstanding anything contained in the Code or any other law, Modified every scheduled offence shall be deemed to be a cognizable offence within the meaning of clause (c) of section 2 of the Code and "cognizable case" as defined in that clause shall be construed accordingly.

application of certain provisions of the Code.

- (2) Section 167 of the Code shall apply in relation to a case involving a scheduled offence subject to the modifications that-
 - (a) the reference in sub-section (1) thereof to "Judicial Magistrate" shall be construed as a reference to "Judicial Magistrate or Executive Magistrate";
 - (b) the references in sub-section (2) thereof to "fifteen days", "ninety days" and "sixty days", wherever they occur, shall be construed as references to "thirty days", "one year" and "one year", respectively; and
 - (c) sub-section (2A) thereof shall be deemed to have been omitted.
- (3) Sections 366 to 371 and section 392 of the Code shall apply in relation to a case involving a scheduled offence subject to the modifications that the references to "Court of Session" and "High Court", wherever occurring therein, shall be construed as references to "Special Court" and "Supreme Court", respectively.

- (4) Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed a scheduled offence in a terrorist affected area.
- (5) Notwithstanding anything contained in the Code, no person accused of a scheduled offence shall, if in custody, be released on bail or on his own bond unless-
 - (a) the Public Prosecutor has been given an opportunity to oppose the application for such release, and
 - (b) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while
- (6) The limitations on granting of bail specified in sub-section (5) are in addition to the limitations under the Code or any other law for the time being in force on granting of bail.

Overriding effect of Ordinance

- 16. (1) The provisions of this Ordinance shall have effect notwithstanding anything contained in the Code or any other law, but save as expressly provided in this Ordinance, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Ordinance, apply to the proceedings before a Special Court; and for the purpose of the said provisions of the Code, the Special Court shall be deemed to be a Court of Session.
- (2) In particular and without prejudice to the generality of the provisions contained in sub-section (1), the provisions of sections 326 and 475 of the Code shall, as far as may be, apply to the proceedings before a Special Court, and for this purpose any reference in those provisions to a Magistrate shall be construed as a reference to the Special Court.

Delegation.

17. The Central Government may, by notification, delegate, subject to such conditions as may be specified, all or any of the powers exercisable by it under this Ordinance [except the power under sub-section (2) of section 4 and the power under sub-section (2) of section 7] to the State Government.

Power to make rules.

Saving.

- 18. The Supreme Court may, by notification, make such rules, if any, as it may deem necessary for carrying out the purposes of this Ordinance.
- 19. (1) Nothing in this Ordinance shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under any law relating to the naval, military or air forces or any other armed forces of the Union.
- (2) For the removal of doubts, it is hereby declared that for the purposes of any such law as is referred to in sub-section (1), a Special Court shall be deemed to be a Court of ordinary criminal justice.
- 20. In the Indian Evidence Act, 1872, after section 111, the following section shall be inserted, namely:-

Amendment of Act 1 of 1872.

Presumption as to certain offences.

- "111A. (1) Where a person is accused of having committed any offence specified in sub-section (2), in-
 - (a) any area declared to be a disturbed area under any enactment, for the time being in force, making provision for the suppression of disorder and restoration and maintenance of public order; or

(b) any area in which there has been, over a period of more than one month, extensive disturbance of the public peace,

and it is shown that such person had been at a place in such area at a time when firearms or explosives were used at or from that place to attack or resist the members of any armed forces or the forces charged with the maintenance of public order acting in the discharge of their duties, it shall be presumed, unless the contrary is shown, that such person had committed such offence.

- (2) The offences referred to in sub-section (1) are the following, namely:__
 - (a) an offence under section 121, section 121A, section 122 or section 123 of the Indian Penal Code;
 - (b) criminal conspiracy or attempt to commit, or abetment of, an offence under section 122 or section 123 of the Indian Penal Code.".

THE SCHEDULE

[See section 2 (f)]

PART I-INDIAN PENAL CODE

45 of 1860.

45 of 1960.

- 1. Offences under the following provisions of the Indian Penal Code, 1860:—
 - (a) sections 121, 121A, 122, 123, 124 and 124A;
 - (b) sections 128, 129 and 130;
 - (c) sections 131, 132, 133, 134, 135, 136, 138 and 140; sections 153A and 153B; sections 189 and 190;

sections 212, 216, 216A, 224, 225 and 225B;

sections 295 and 295A; A nothing five to work the price A and

sections 302, 304 and 307;

- (d) sections 308 and 326; MARCI TO VOITABLE AND A TENT
- (e) sections 332, 333, 342, 343, 344, 346, 347, 353, 363, 364, 365 and 367:

sections 392, 393, 394, 395, 396, 397, 398, 399 and 436; sections 505, 506 and 507.

PART II—THE EXPLOSIVES ACT, 1884 of bomes of links

2. Offences under the following provisions of the Explosives Act, 1884:of 1884. Note 2.—An offence specified in item I(d) of Part I 0.80 notices (that is to say, an offence under section 308 or section 326 of the Indian Penal Code)

PART III—THE INDIAN TELEGRAPH ACT, 1885

3. Offences under the following provisions of the Indian Telegraph Act, 13 of 1885. 1885: -- The offence of criminal conspincy or attempt to commit --: 2881 ment of, an offence specified in this Schedule shall be deemed to I

sections 20 and 25.

namely:

PART IV-THE INDIAN RAILWAYS ACT, 1890

4. Offences under the following provisions of the Indian Railways Act, 1890:—

9 of 1890

sections 126, 126A, 127 and 128.

PART V—THE EXPLOSIVE SUBSTANCES ACT, 1908

5. Offences under the following provisions of the Explosive Substances Act, 1908:—

6 of 1009

sections 3, 4, 5 and 6.

PART VI—THE ARMS ACT, 1959

6. Offences under the following provisions of the Arms Act, 1959:-

54 of 1959.

sections 25(1) excluding clause (b), 25(1A), 25(1B) excluding clauses (d), (e), (i), 26, 27, 28 and 29.

PART VII—THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967

7. Offences under the following provisions of the Unlawful Activities (Prevention) Act, 1967:—

37 of 1967.

sections 10, 11, 12 and 13, invoid animaller add toland assembled

PART VIII—THE ANTI-HIJACKING ACT, 1982

8. Offences under the following provisions of the Anti-Hijacking Act, 1982:— 65 of 1982 sections 4 and 5.

PART IX—THE SUPPRESSION OF UNLAWFUL ACTS AGAINST SAFETY OF CIVIL AVIATION ACT, 1982.

9. Offences under the following provisions of the Suppression of Unlawful Acts Against Safety of Civil Aviation Act, 1982:—

66 of 1982.

BERT TO KIN

sections 3 and 4.

PART X-THE PREVENTION OF DAMAGE TO PUBLIC PROPERTY ACT, 1984

10. Offences under the following provisions of the Prevention of Damage to Public Property Act, 1984:—

sections 3 and 4. The more seen seen seen some anothers

Note 1.—An offence specified in item 1(b) of Part I of this Schedule (that is to say, an offence under section 128, 129 or 130 of the Indian Penal Code) shall be deemed to be a scheduled offence only where such offence is committed in relation to a prisoner accused, charged or convicted of a scheduled offence.

Note 2.—An offence specified in item 1(d) of Part I of this Schedule (that is to say, an offence under section 308 or section 326 of the Indian Penal Code) shall be deemed to be a scheduled offence only where such offence is committed with a firearm.

Note 3.—The offence of criminal conspiracy or attempt to commit, or abetment of, an offence specified in this Schedule shall be deemed to be a scheduled offence. Note 4.—The commission of an offence specified in this Schedule by any member of an unlawful assembly shall be deemed to be the commission of that scheduled offence by every other member of the unlawful assembly.

ZAIL SINGH,

President.

R. V. S. PERI SASTRI, Secy. to the Govt. of India. Red. by Act 3 % 1285, 5. 6.

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REGISTERED No. D-(D)-72



असाधारण

EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

Ho 85]

नई दिल्ली, सोमवार, सितम्बर 17, 1984/माइ 26, 1906 NEW DELHI, MONDAY, SEPTEMBER 17, 1984/BHADRA 26, 1906

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 17th September, 1984/Bhadra 26, 1906 (Saka)

THE GENERAL INSURANCE BUSINESS (NATIONALISATION) AMENDMENT ORDINANCE, 1984

No. 10 of 1984

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

An Ordinance further to amend the General Insurance Business (Nationalisation) Act, 1972.

WHEREAS for securing the interests of the General Insurance Corporation of India and of the acquiring companies and of their policy holders and to control the cost of administration, it is necessary that further rationalisation or revision of pay scales and other terms and conditions of service applicable to the officers and other employees of the Corporation and of the acquiring companies should be undertaken expeditiously;

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:—

Short title and commencement.

- 1. (1) This Ordinance may be called the General Insurance Business (Nationalisation) Amendment Ordinance, 1984.
 - (2) It shall come into force at once.

Amendment of clause (o) of section 3. 2. In section 3 of the General Insurance Business (Nationalisation) Act, 1972 (hereinafter referred to as the principal Act), in clause (o), after the words and figures "framed under section 16", the words, figures and letter "and also includes a scheme framed under section 17A" shall be inserted.

57 of 1972.

Amendment of section 16.

- 3. In section 16 of the principal Act, after sub-section (7), the following sub-section shall be inserted, namely:—
 - "(8) The power to frame a scheme under sub-section (1), and the power conferred by sub-section (6) to add to, amend or vary any scheme framed under this section, shall include the power to frame such scheme with retrospective effect from a date not earlier than the appointed day.".

Insertion of new Chapter VA. 4. In the principal Act, after Chapter V, the following Chapter shall be inserted, namely:—

"CHAPTER VA

TERMS AND CONDITIONS OF SERVICE OF OFFICERS AND OTHER EMPLOYEES

Power of Central Government to regulate the terms and conditions of service of officers and other employees.

- 17A. (1) The Central Government may, by notification in the Official Gazette, frame one or more schemes for regulating the pay scales and other terms and conditions of service of officers and other employees of the Corporation or of any acquiring company.
- (2) A scheme framed under sub-section (1) may add to, amend or vary any scheme framed under section 16 [including any addition, amendment or variation made therein by notification under sub-section (6) of section 16] with respect to rationalisation or revision of pay scales and other terms and conditions of service of officers and other employees of the Corporation or of any acquiring company, to provide for further rationalisation or revision of such pay scales and other terms and conditions of service notwithstanding that such further rationalisation or revision is unrelated to, or unconnected with, the amalgamation of insurance companies or merger consequent on nationalisation of general insurance business.
- (3) The Central Government may, by notification, add to, amend or vary any scheme framed under this section.
- (4) The power to frame a scheme under sub-section (1), and the power conferred by sub-section (3) to add to, amend or vary any scheme framed under this section, shall include the power to frame such scheme, or, as the case may be, to make such addition, amendment or variation in any scheme framed under this section, with retrospective effect from a date not earlier than the appointed day.
- (5) A copy of every scheme, and every amendment thereto, framed under this section shall be laid, as soon as may be after it is made, before each House of Parliament.
- (6) The provisions of this section and of any scheme framed under it shall have effect notwithstanding anything to the contrary contained in any other law or any agreement, award or other instrument for the time being in force."

- 5. (1) Notwithstanding anything contained in any judgment, decree or Validaorder of any court, tribunal or other authority or in any other law, agreement, award or other instrument for the time being in force, every scheme framed or purporting to have been framed with retrospective effect under sub-section (1) of section 16 of the principal Act and every notification made or purporting to have been made with retrospective effect under sub-section (6) of that section before the commencement of the General Insurance Business (Nationalisation) Amendment Ordinance, 1984 shall be, and shall be deemed always to have been, for all purposes, as valid and effective as if the amendment made in the said section 16 by section 3 of this Ordinance had been part of that section and had been in force at all material times.
- (2) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority or in any other law, agreement, award or other instrument for the time being in force,-
 - (a) every scheme framed, or purporting to have been framed, by the Central Government under sub-section (1) of section 16 of the principal
 - (b) every notification made, or purporting to have been made, by the Central Government under sub-section (6) of the said section 16,

before the commencement of the General Insurance Business (Nationalisation) Amendment Ordinance, 1984, in so far as such scheme or notification provides (whether with or without retrospective effect) for any rationalisation or revision of pay scales or other terms and conditions of service of officers and other employees of the Corporation or of any acquiring company, otherwise than in relation to, or in connection with, amalgamation of insurance companies or merger consequent on nationalisation of general insurance business shall be, and shall be deemed always to have been, for all purposes, as valid and effective as if section 17A, as inserted in the principal Act by section 4, of this Ordinance had been part of the principal Act, and had been in force at all material times and such schemes or notification in so far as it provides as aforesaid had been framed or made, under the said section 17A:

Provided that nothing in this section shall apply to, or in relation to, the notification dated the 30th day of September, 1980, framing the General Insurance (Nationalisation and Revision of Pay Scales and Other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Second Amendment Scheme, 1980.

Explanation.—In this section, the expressions "acquiring company" "Corporation" shall have the meanings respectively assigned to them in principal Act.

> ZAIL SINGH. President.

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



असाधारण EXTRAORDINARY PART II—Section 1 भाग II—सण्ड 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

No. 89]

नई दिल्लो, शुक्रवार, ग्रव्ह्बर 19, 1984/ग्रश्विन 27, 1906 NEW DELHI, FRIDAY, OCTOBER 19, 1984/ASVINA 27, 1906

इस भाग में भिन्न पृष्ठ संस्था 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 19th October, 1984/Asvina 27, 1906 (Saka)

THE NATIONAL CAPITAL REGION PLANNING BOARD ORDINANCE, 1984

No. 11 of 1984

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

An Ordinance to provide for the constitution of a Planning Board for the preparation of a plan for the development of the National Capital Region and for co-ordinating and monitoring the implementation of such plan and for evolving harmonised policies for the control of land uses and development of infrastructure in the National Capital Region so as to avoid any haphazard development of that region and for matters connected therewith or incidental thereto.

WHEREAS it is expedient in the public interest to provide for the constitution of a Planning Board for the preparation of a plan for the development of the National Capital Region and for co-ordinating and monitoring the implementation of such plan and for evolving harmonized policies for the control of land-uses and development of infrastructure in the National Capital Region so as to avoid any haphazard development thereon;

AND WHEREAS Parliament has no power to make laws for the States with respect to any of the matters aforesaid, except as provided in articles 249 and 250 of the Constitution;

AND WHEREAS in pursuance of the provisions of clause (1) of article 252 of the Constitution, resolutions have been passed by all the Houses of the Legislatures of the States of Haryana, Rajasthan and Uttar Pradesh to the effect that the matters aforesaid should be regulated in those States by Parliament by law;

AND WHEREAS a Bill to provide for the constitution of a Planning Board for the preparation of a plan for the development of the National Capital Region and for co-ordinating and monitoring the implementation of such plan and for evolving harmonised policies for the control of land-uses and development of infrastructure in the National Capital Region so as to avoid any haphazard development of that region and for matters connected therewith or incidental thereto, has been introduced in the House of the People, but has not yet been passed;

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 to give effect to the provisions of the said Bill;

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 Capital Region Planning Board Ordinance, 1984.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

- 2. In this Ordinance, unless the context otherwise requires,-
- (a) "Board" means the National Capital Region Planning Board constituted under sub-section (1) of section 3;
- (b) "Committee" means the Planning Committee constituted under sub-section (1) of section 4;
- (c) "counter-magnet area" means an urban area selected by the Board under clause (f) of section 8;
- (d) "Functional Plan" means a plan prepared to elaborate one or more elements of the Regional Plan;
- (e) "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;
- (f) "National Capital Region" means the areas specified in the Schedule:

Provided that the Central Government with the consent of the Government of the concerned participating State and in consultation with the Board, may, by notification in the Official Gazette, add any area to the Schedule or exclude any area therefrom;

- (g) "participating States" means the States of Haryana, Rajasthan and Uttar Pradesh;
- (h) "prescribed" means prescribed by rules made under this Ordinance;

19.10.1984: vide Motion. Mo So. 852(E), at 9-11.84.

- (i) "Project Plan" means a detailed plan prepared to implement one or more elements of the Regional Plan, Sub-Regional Plan or Functional Plan;
- (j) "Regional Plan" means the plan prepared under this Ordinance for the development of the National Capital Region and for the control of land-uses and the development of infrastructure in the National Capital Region;
- (k) "regulations" means regulations made by the Board under this Ordinance;
- (l) "sub-region" means such part of the National Capital Region as falls entirely within the limits of a participating State or the Union territory;
- (m) "Sub-Regional Plan" means a plan prepared for a sub-region; and
 - (n) "Union territory" means the Union territory of Delhi,

CHAPTER II

THE NATIONAL CAPITAL REGION PLANNING BOARD

- 3. (1) The Central Government shall, by notification in the Official Gazette, constitute for the purposes of this Ordinance, a Board, to be called the National Capital Region Planning Board.
- constitution and incorporation of the Board.
- (2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to contract and shall, by the said name, sue and be sued.
- (3) The Board shall consist of such number of members, not exceeding twenty-one, as may be prescribed, and unless the rules made in this behalf otherwise provide, the Board shall consist of the following members, namely:—
 - (a) the Union Minister for Works and Housing, who shall be the Chairman of the Board;
 - (b) the Chief Minister of the State of Haryana;
 - (c) the Chief Minister of the State of Rajasthan;
 - (d) the Chief Minister of the State of Uttar Pradesh;
 - (e) the Administrator of the Union territory;
 - (f) eight members, to be nominated by the Central Government, on the recommendation of the participating States and the Administrator of the Union territory:

Provided that not more than two members shall be nominated on the recommendation of a participating State, or, as the case may be, the Administrator of the Union territory;

- (g) three other members, of whom one shall be a person having knowledge and experience in town planning, to be nominated by the Central Government;
- (h) a full time Member-Secretary to the Board, to be nominated by the Central Government from amongst officers of, or above, the rank of a Joint Secretary to, the Government of India:

4

Provided that no change shall be made in the composition of the Board except with the consent of the Government of each of the participating States and of the Administrator of the Union territory.

(4) The terms and conditions of office of the members nominated under clause (f), clause (g) or clause (h) of sub-section (3) shall be such as may be prescribed.

Composition of the Planning Committee.

- 4. (1) The Board shall, as soon as may be, after the commencement of this Ordinance, constitute a Committee, to be called the Planning Committee, for assisting the Board in the discharge of its functions.
- (2) The Committee shall consist of such members as may be prescribed and unless the rules made in this behalf otherwise provide, the Committee shall consist of the following members, namely:—
 - (a) the Member-Secretary to the Board, who shall be the ex officio Chairman of the Committee;
 - (b) the Joint Secretary to the Government of India in the Ministry of Works and Housing, in-charge of Housing and Urban Development, ex clificio;
 - (c) Secretary-in-charge of Urban Development in each participating State and the Union territory, ex officio;
 - (d) the Vice-Chairman, Delhi Development Authority, ex officio;
 - (e) the Chief Planner, Town and Country Planning Organisation, New Delhi, ex officio; and
 - (f) the Chief Town Planner of each participating State, ex officio.

Power to co-opt., etc.

Vacancies, etc., not to

invalidate

of the Board

or the

proceedings

Committee.

- 5. (1) The Board or the Committee may, at any time and for such period as it thinks fit, co-opt any person or persons as a member or members of the Board or of the Committee.
- (2) A person co-opted under sub-section (1) shall exercise and discharge all the powers and functions of a member of the Board or of the Committee, as the case may be, but shall not be entitled to vote.
- 6. No act or proceeding of the Board or of the Committee shall be invalid merely by reason of—
 - (a) the existence of any vacancy in, or any defect in the constitution of, the Board or the Committee; or
 - (b) any irregularity in the procedure of the Board or of the Committee not affecting the merits of the case.

CHAPTER III

FUNCTIONS AND POWERS OF THE BOARD AND OF THE COMMITTEE

Functions of the Board.

- 7. The functions of the Board shall be-
 - (a) to prepare the Regional Plan and the Functional Plans;
- (b) to arrange for the preparation of Sub-Regional Plans and Project Plans by each of the participating States and the Union territory;
- (c) to co-ordinate the enforcement and implementation of the Regional Plan, Functional Plans, Sub-Regional Plans and Project Plans through the participating States and the Union territory;

- (d) to ensure proper and systematic programming by the participating States and the Union territory in regard to project formulation, determination of priorities in the National Capital Region or sub-regions and phasing of development of the National Capital Region in accordance with stages indicated in the Regional Plan;
- (e) to arrange for, and oversee, the financing of selected development projects in the National Capital Region through Central and State plan funds and other sources of revenue.
- 8. The powers of the Board shall include the powers to-

Powers of the Board.

- (a) call for reports and information from the participating States and the Union territory with regard to preparation, enforcement and implementation of Functional Plans and Sub-Regional Plans;
- (b) ensure that the preparation, enforcement and implementation of Functional Plan or Sub-Regional Plan, as the case may be, is in conformity with the Regional Plan;
- (c) indicate the stages for the implementation of the Regional Plan;
- (d) review the implementation of the Regional Plan, Functional Plan, Sub-Regional Plan and Project Plan;
- (e) select and approve comprehensive projects, call for priority development and provide such assistance for the implementation of those projects as the Board may deem fit;
- (f) select, in consultation with the State Government concerned, any urban area, outside the National Capital Region having regard to its location, population and potential for growth, which may be developed in order to achieve the objectives of the Regional Plan;
- (g) entrust to the Committee such other functions as it may consider necessary to carry out the provisions of this Ordinance.
- 9. (1) The functions of the Committee shall be to assist the Board—
- (a) in the preparation and co-ordinated implementation of the Regional Plan and the Functional Plans; and
- (b) in scrutinising the Sub-Regional Plans and all project plans to ensure that the same are in conformity with the Regional Plan.
- (2) The Committee may also make such recommendation to the Board as it may think necessary to amend or modify any Sub-Regional Plan or any Project Plan.
- (3) The Committee shall perform such other functions as may be entrusted to it by the Board.

CHAPTER IV

THE REGIONAL PLAN

10. (1) The Regional Plan shall be a written statement and shall be accompanied by such maps, diagrams, illustrations and descriptive matters, as the Board may deem appropriate for the purpose of explaining or illustrating the proposals contained in the Regional Plan and every such map, diagram, illustration and descriptive matter shall be deemed to be a part of the Regional Plan.

Contents of the Regional Plan,

Functions of the Committee.

- (2) The Regional Plan shall indicate the manner in which the land in the National Capital Region shall be used, whether by carrying out development thereon or by conservation or otherwise, and such other matters as are likely to have any important influence on the development of the National Capital Region and every such plan shall include the following elements needed to promote growth and balanced development of the National Capital Region, namely:—
 - (a) the policy in relation to land-use and the allocation of land for different uses;
 - (b) the proposals for major urban settlement pattern;
 - (c) the proposals for providing suitable economic base for future growth;
 - (d) the proposals regarding transport and communications including railways and arterial roads serving the National Capital Region;
 - (e) the proposals for the supply of drinking water and for drainage;
 - (f) indication of the areas which require immediate development as "priority areas"; and
 - (g) such other matters as may be included by the Board with the concurrence of the participating States and the Union territory for the proper planning of the growth and balanced development of the National Capital Region.

Surveys and studies. 11. For the preparation of the Regional Plan, the Board may cause such surveys and studies, as it may consider necessary, to be made by such person or group of persons as it may appoint in this behalf and may also associate such experts or consultants for carrying out studies in relation to such specific matters as may be determined by the Board.

Procedure to be followed for the preparation of Regional Plan.

- 12. (1) Before preparing any Regional Plan finally, the Board shall prepare, with the assistance of the Committee, a Regional Plan in draft and publish it by making a copy thereof available for inspection and publishing a notice in such form and manner as may be prescribed, inviting objections and suggestions from any person with respect to the draft Regional Plan before such date as may be specified in the notice.
- (2) The Board shall also give reasonable opportunities to every local authority, within whose local limits any land touched by the Regional Plan is situate, to make any representation with respect to the draft Regional Plan.
- (3) After considering all objections, suggestions and representations that may have been received by the Board, the Board shall finally prepare the Regional Plan.

Date of coming into operation of the Regional Plan.

13. (1) Immediately after the Regional Plan has been finally prepared, the Board shall publish, in such manner as may be prescribed, a notice stating that the Regional Plan has been finally prepared by it and naming the places where a copy of the Regional Plan may be inspected at all reasonable hours and upon the date of first publication of the aforesaid notice, the Regional Plan shall come into operation.

- (2) The publication of the Regional Plan, after previous publication, as required by section 12, shall be conclusive proof that the Regional Plan has been duly prepared.
- 14. (1) The Board may, subject to the provisions of sub-section (2), make such modifications in the Regional Plan as finally prepared by it, as it may think fit, being modifications which, in its opinion, do not effect important alterations in the character of the Regional Plan and which do not relate to the extent of land-uses or the standards of population density.

Modifications of the Regional Plan.

- (2) Before making any modifications in the finally prepared Regional Plan, the Board shall publish a notice, in such form and manner as may be prescribed, indicating therein the modifications which are proposed to be made in the finally prepared Regional Plan, and inviting objections and suggestions from any person with respect to the proposed modifications before such date as may be specified in the notice and shall consider all objections and suggestions that may be received by it on or before the date so specified.
- (3) Every modification made under this section shall be published in such manner as the Board may specify and the modifications shall come into operation either on the date of such publication or on such later date as the Board may fix.
- (4) If any question arises whether the modifications proposed to be made are modifications which effect important alterations in the character of the Regional Plan or whether they relate to the extent of landuses or the standards of population density, it shall be decided by the Board whose decision thereon shall be final.
- 15. (1) After every five years from the date of coming into operation of the finally prepared Regional Plan, the Board shall review, such Regional Plan in its entirety and may, after such review, substitute it by a fresh Regional Plan or may make such modifications or alterations therein as may be found by it to be necessary.

Review and revision of the Regional Plan.

(2) Where it is proposed to substitute a fresh Regional Plan in place of the Regional Plan which was previously finally prepared or where it is proposed to make any modifications or alterations in the finally prepared Regional Plan, such fresh plan or, as the case may be, modifications or alterations, shall be published and dealt with in the same manner as if it were the Regional Plan referred to in sections 12 and 13 or they were the modifications or alterations in the Regional Plan made under section 14.

CHAPTER V

FUNCTIONAL PLANS, SUB-REGIONAL PLANS AND PROJECT PLANS

16. After the Regional Plan has come into operation, the Board may prepare, with the assistance of the Committee, as many Functional Plans as may be necessary for the proper guidance of the participating States and of the Union territory.

tion of Functional Plans,

Prepara-

17. (1) Each participating State shall prepare a Sub-Regional Plan for the sub-region within that State and the Union territory shall prepare a Sub-Regional Plan for the sub-region within the Union territory.

Preparations of Sub-Regional Plans.

- (2) Each Sub-Regional Plan shall be a written statement and shall be accompanied by such maps, diagrams, illustrations and descriptive matters as the participating State or the Union territory may deem appropriate for the purpose of explaining or illustrating the proposals contained in such Sub-Regional Plan and every such map, document, illustration and descriptive matter shall be deemed to be a part of the Sub-Regional Plan.
- (3) A Sub-Regional Plan may indicate the following elements to elaborate the Regional Plan at the sub-regional level, namely:—
 - (a) reservation of areas for specific land-uses which are of the regional or sub-regional importance;
 - (b) future urban and major rural settlements indicating their area, projected population, predominant economic functions, approximate site and location;
 - (c) road net-work upto the district roads and roads connecting major rural settlements;
 - (d) proposals for the co-ordination of traffic and transportation, including terminal facilities;
 - (e) priority areas at sub-regional level for which immediate
 - (f) proposals for the supply of drinking water and for drainage; and
 - (g) any other matter which is necessary for the proper development of the sub-region.

Preparation of Project Plans. 18. A participating State, or the Union territory, may, by itself or in collaboration with one or more of the participating States or the Union territory, as the case may be, prepare Project Plans for one or more elements of the Regional Plan, Functional Plan or Sub-Regional Plan.

Submission of Sub-Regional Plans to the Board.

- 19. (1) Before publishing any Sub-Regional Plan, each participating State or as the case may be, the Union territory, shall, refer such Plan to the Board to enable the Board to ensure that such plan is in conformity with the Regional Plan.
- (2) The Board shall, after examining a Sub-Regional Plan, communicate, within sixty days from the date of receipt of such plan, its observations with regard to the Sub-Regional Plan to the participating State or the Union territory by which such plan was referred to it.
- (3) The participating State, or, as the case may be, the Union territory, shall, after due consideration of the observations made by the Board, finalise the Sub-Regional Plan after ensuring that it is in conformity with the Regional Plan.

Implementation of Sub-Regional Plans, etc. 20. Each participating State, or, as the case may be, the Union territory shall be responsible for the implementation of the Sub-Regional Plan, as finalised by it under sub-section (3) of section 19, and Project Plans prepared by it.

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

21. (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants and loans of such sums of money as that Government may consider necessary to enable the Board to carry out its functions under this Ordinance.

Grants and Loans by the Central Government.

- (2) The Central Government shall also, after due appropriation made by Parliament by law in this behalf, pay to the Board such other sums as may be necessary for meeting the salaries, allowances and other remunerations of the Member-Secretary, officers and other employees of the Board and such amounts as may be necessary to meet the other administrative expenses of the Board.
- 22. (1) There shall be constituted a Fund to be called the National Capital Regional Planning Board Fund and there shall be credited thereto—

Constitution of the Fund.

- (a) any grants and loans made to the Board by the Central Government under section 21;
- (b) all sums paid to the Board by the participating States and the Union territory;
- (c) all sums received by the Board from such other sources as may be decided upon by the Central Government in consultation with the participating States and the Union territory.
- (2) The sums credited to the said Fund referred to in sub-section (1) shall be applied for—
 - (a) meeting the salaries, allowances and other remunerations of the Member-Secretary, Officers and other employees of the Board and for meeting other administrative expenses of the Board, so, however, that the total expenses shall not exceed the amount appropriated for this purpose under sub-section (2) of section 21;
 - (b) conducting surveys, preliminary studies, and drawing up of plans for the National Capital Region;
 - (c) providing financial assistance to the participating States and the Union territory for the implementation of Sub-Regional Plans and Projects Plans; and
 - (d) providing financial assistance to the State concerned for the development of the counter-magnet area subject to such terms and conditions as may be agreed upon between such State and the Board.
- 23. The Board shall, in each financial year, prepare in such form and at such time as may be prescribed its budget for the next financial year and forward the same to the Central Government at least three ranths prior to the commencement of the next financial year.

Budget.

Annual report.

24. The Board shall prepare in each year its annual report in such form and at such time as may be prescribed, giving a full account of its activities during the year immediately preceding the year in which such report is prepared and forward, before such date as may be prescribed, copies thereof to the Central Government, the participating States and the Union territory.

Accounts and audit.

25. The accounts of the Board shall be maintained and audited in such manner as may be prescribed in consultation with the Comptroller and Auditor-General of India and the Board shall furnish, to the Central Government, before such date as may be prescribed, a copy of its audited accounts together with the auditor's report thereon.

Annual report and auditor's report to be laid before Parliament.

26. The Central Government shall cause the annual report and the auditor's report to be laid as soon as may be after their receipt, on the Table of 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.

CHAPTER VII

MISCELLANEOUS

Ordinance to have overriding effect. 27. 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.

Power of the Central Government to give directions, 28. The Central Government may, from time to time, give such directions to the Board as it may think fit for the efficient administration of this Ordinance and when any such direction is given, the Board shall carry out such directions.

Violation of Regional Plan,

- 29. (1) On and from the coming to operation of the finally published Regional Plan, no development shall be made in the region which is inconsistent with the Regional Plan as finally published.
- (2) Where the Board is satisfied that any participating State or the Union territory has carried out, or is carrying out, any activity which amounts to a violation of the Regional Plan, it may, by a notice in writing, direct the concerned participating State or the Union territory, as the case may be, to stop such violation of the Regional Plan within such time as may be specified in the said notice and in case of any omission or refusal on the part of the concerned participating State or the Union territory to stop such activity, withhold such financial assistance to the concerned participating State or the Union territory, as the Board may consider necessary.

30. (1) The Central Government may direct its Town and Country Planning Organisation to provide, on such terms and conditions as may be mutually agreed upon, such technical assistance to the Board as that Government may consider necessary and the Government of a participating State may direct the Town Planning Department of that Government to make such technical assistance to the Board as that Government may consider necessary.

Technical assistance to the Board.

- (?) With a view to enabling the Committee to discharge its functions, the Board shall, out of the technical assistance received by it under sub-section (1) make available to the Committee such technical assistance as the Committee may require.
- 31. (1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Ordinance.

Officers and employees the Board.

- (2) The terms and conditions of the officers and employees of the Board shall be such as may be determined by regulations.
- 32. The Board may, by notification in the Official Gazette, direct that any function or power (other than the power to approve the Regional Plan and to make regulations), or duty which the Board may perform, exercise or discharge under this Ordinance shall subject to such conditions, if any, as may be specified in the notification, be performed, exercised or discharged also by such person or persons as may be specified in the notification and where any such delegation of power is made the person or persons to whom such power is delegated shall perform, exercise or discharge those powers in the same manner and to the same extent as if they were conferred on him or them directly by this Ordinance and not by way of delegation.

Power to delegate.

33. Subject to any rules made in this behalf, any person generally or specially authorised by the Board in this behalf, may, at all reasonable times, enter upon any land or premises and do such things thereon as may be necessary for the purpose of lawfully carrying out any works or for making any survey, examination or investigation, preliminary or incidental to the exercise of any power or performance of any function by the Board under this Ordinance:

Power of entry.

Provided that no such person shall enter any building or any enclosed courtyard or garden attached to a dwelling house without previously giving such occupier at least three days' notice in writing of his intention to do so.

34. The Member-Secretary, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, to be public servants within the meaning of section 21 of the Indian Penal Code.

Member-Secretary, officers and other employees of the Board to be public servants.

of 1860.

Protection of action taken in good faith. 35. No suit, prosecution or other legal proceeding shall lie against the Board or any member or any officer or any other employee of the Board including any other person authorised by the Board to exercise any power or to discharge any function under this Ordinance. or for anything which is in good faith done or intended to be done under this Ordinance.

Power to make rules.

- 36. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.
- (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
 - (a) the composition and number of members of the Board and of the Committee, as required by sub-section (3) of section 3 and sub-section (2) of section 4, respectively, to be prescribed;
 - (b) the terms and conditions of the office of the members as required by sub-section (4) of section 3, to be prescribed;
 - (c) the form and manner in which notice under sub-section (1) of section 12 and sub-section (2) of section 14 shall be published;
 - (d) the manner in which notice under sub-section (1) of section 13 shall be published;
 - (e) the form in which and the time when the Board shall prepare its budget under section 23 and its annual report under section 24 and the manner in which the accounts of the Board shall be maintained and audited under section 25;
 - (f) the conditions and restrictions with respect to the exercise of the power to enter under section 33 and other matters relating thereto; and
 - (g) any other matter which is to be, or may be, prescribed or in respect of which provision is to be, or may be, made by rules.

Power to make regulations.

- 37. (1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with this Ordinance and the rules made thereunder to carry to out the provisions of this Ordinance.
- (2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—
 - (a) the manner in which and the purposes for which the Board may associate with itself any person under section 11;
 - (b) the terms and conditions of service of the officers and employees of the Board under sub-section (2) of section 31; and
 - (c) any other matter in respect of which provision is to be or may be made by regulations.

38. Every rule and every regulation 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 in making any modification in the rule or regulation, as the case may be, or both Houses agree that the rule or regulation, as the case may be, should not be made, the rule or regulation 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 or regulation.

Kules and regulations to be laid before Parliament.

39. (1) Where the Central Government is satisfied that the purposes for which the Board was established under this Ordinance have been substantially achieved or the Board has failed in its objectives, so as to render the continued existence of the Board in the opinion of the Central Government unnecessary, that Government may, by notification in the Official Gazette, declare that the Board shall be dissolved with effect from such date as may be specified in the notification; and the Board shall be deemed to be dissolved accordingly.

Dissolution of the Board.

(2) From the said date-

- (a) all properties, funds and dues which are vested in or realisable by the Board shall vest in, or be realisable by, the Central Government;
- (b) all liabilities which are enforceable against the Board shall be enforceable against the Central Government;
- (c) for the purpose of carrying out any development which has not been fully carried out by the Board and for the purpose of realising properties, funds and dues referred to in clause (a) the functions of the Board shall be discharged by the Central Government.
- (3) Nothing in this section shall be construed as preventing the Central Government from reconstituting the Board in accordance with the provisions of this Ordinance.
- 40. For the removal of doubts, it is hereby declared that the acquisition of land or the determination of any right or interest in, or in relation to, any land or other property, where necessary to give effect to any Regional Plan, Functional Plan, Sub-Regional Plan or Project Plan, shall be made by the Government of the concerned participating State, or, as the case may be, the Union territory, in accordance with the law for the time being in force in that State or Union territory.

Acquisition of land and determination of rights in relation to land to be made by the Government of the participating State or Union territory.

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The National Capital Region shall comprise the following areas:

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1. Delhi

The whole of the Union territory of Delhi.

2. Haryana

- (i) The whole of District of Gurgaon comprising the Tehsil of Gurgaon, Nuh and Ferozepur-Jhirka;
- (ii) The whole of District of Faridabad, comprising the Tehsils of Ballabgarh, Palwal and Hathin;
 - (iii) The whole of District of Rohtak comprising the Tehsils of Rohtak, Jhajjar, Bahadurgarh, Meham and Kosli;
 - (iv) The whole of District of Sonepat, comprising the Tehsils of Sonepat and Gohana; and
 - (v) Panipat Tehsil of District of Karnal and Rewari Tehsil of District of Mohindergarh.

3. Uttar Pradesh

- (i) The whole of District of Bulandshahr comprising the Tehsils of Anupshahr, Bulandshahr, Khurja, Sikanderabad;
 - (ii) The whole of District of Meerut comprising the Tehsils of Meerut, Bagpat, Mawana and Sardhana; and
 - (iii) The whole of District of Ghaziabad comprising the Tehsils of Ghaziabad and Hapur.

4. Rajasthan

- (i) The whole of the following Tehsils of Alwar District, namely, Behroor, Mandawar, Kishangarh and Tijara; and
- (ii) Part of Alwar Tehsil comprising the area bounded in the north by the Tehsil boundaries of Mandawar and Kishangarh, in the east of the boundaries of Tehsil Ferozepur-Jhirka of District Gurgaon, Haryana and Alwar Tehsil, in the south by the Barah river right up to Umran lake in the west, and then following the southern boundaries of Umran lake up to the junction of Umran lake and State Highway from Alwar to Bairat and from then on west by

north-west across the ridge up to the junction of the Tehsil boundaries of Alwar and Bansur,

Explanation.—Save as otherwise provided, reference to any district or tehsil in this Schedule shall be construed as a reference to the areas comprised in that district or tehsil, as the case may be, on the 27th day of August, 1984, being the date on which the National Capital Region Planning Board Bill, 1984, was introduced in the House of the People.

ZAIL SINGH, President.

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



असाधारण EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

इस भाग में भिन्न पृष्ठ संख्या दो 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 20th October, 1984/Asvina 28, 1906 (Saka)

THE FOREIGN CONTRIBUTION (REGULATION) AMENDMENT ORDINANCE, 1984

No. 12 of 1984

Promulgated by the President in the Thirty-fifth Year of the Republic of India

An Ordinance to amend the Foreign Contribution (Regulation)
Act, 1976

WHEREAS a Bill to amend the Foreign Contribution (Regulation) Act, 1976, has been passed by the Council of States and is pending in the House of the People;

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 to give effect to the provisions of the Bill;

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 Foreign Contribution (Regulation) Amendment Ordinance, 1984.

Short title and commencement.

(2) The provisions of this Ordinance, other than sections 4 and 6, shall come into force at once, and sections 4 and 6 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

- 2. In section 2 of the Foreign Contribution (Regulation) Act, 1976 49 of 1976 (hereinafter referred to as the principal Act), in sub-section (1),-
 - (a) in clause (c), the following Explanation shall be inserted at the end, namely:-

"Explanation.-A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause;";

- (b) for clause (g), the following clause shall be substituted, namely:-
 - '(g) "political party" means-
 - (i) an association or body of individual citizens of India-
 - (1) which is, or is deemed to be, registered with the Election Commission of India as a political party under the Election Symbols (Reservation and Allotment) Order, 1968, as in force for the time being; or
 - (2) which has set up candidates for election to any Legislature, but is not so registered or deemed to be registered under the Election Symbols (Reservation and Allotment) Order, 1968;
 - (ii) a political party mentioned in column 1 of Table I to the notification of the Election Commission of India No. 56 J&K 82, dated the 19th July, 1982 as in force for the time being;'.

Amendment of section 4.

3. In section 4 of the principal Act, in sub-section (1), in clause (c), for the words "Government servant", the words "Judge, Government servant" shall be substituted.

Amendment of section 6.

- 4. In section 6 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:-
 - "(1) No association [other than an organisation referred to in sub-section (1) of section 5] having a definite cultural, economic, educational, religious or social programme shall accept foreign contribution unless such association,-
 - (a) registers itself with the Central Government in accordance with the rules made under this Act; and
 - (b) agrees to receive such foreign contributions only through such one of the branches of a bank as it may specify in its application for such registration,

and every association so registered shall give, within such time and in such manner as may be prescribed, an intimation to the Central

4 1-1.1985: Vide Motion. No. 5.0. 869 (E), dt 21.11.1984 (in respect of Sections 4 and 6.).

Government as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received and the purpose for which and the manner in which such foreign contribution was utilised by it:

Provided that where such association obtains any foreign contribution through any branch other than the branch of the bank through which it has agreed to receive foreign contribution or fails to give such intimation within the prescribed time or in the prescribed manner, or gives any intimation which is false, the Central Government may, by notification in the Official Gazette, direct that such association shall not, after the date of issue of such notification, accept any foreign contribution without the prior permission of the Central Government.

- (1A) Every association referred to in sub-section (1) may, if it is not registered with the Central Government under that sub-section, accept any foreign contribution only after obtaining the prior permission of the Central Government and shall also give, within such time and in such manner as may be prescribed, an intimation to the Central Government as to the amount of foreign contribution received by it, the source from which and the manner in which such foreign contribution was received and the purposes for which and the manner in which such foreign contribution was utilised by it."
- 5. In section 9 of the principal Act, in the opening portion, for the words "Government servant", the words "Judge, Government servant" shall be substituted.

Amendment of section 9.

6. In section 10 of the principal Act, in clause (b), for the words and figure "require any association, specified in section 6", the words, brackets and figures "without prejudice to the provisions of sub-section (1) of section 6, require any association specified in that sub-section" shall be substituted.

Amendment of section 10.

7. In section 14 of the principal Act, for the words and figure "class I post", at both the places where they occur, the words and letter "Group A post" shall be substituted.

Amendment of section 14.

8. After section 15 of the principal Act, the following section shall be inserted, namely:—

15A. Audit of accounts.

Insertion

of new section

"15A. Where any organisation or association fails to furnish any returns under this Act within the time specified therefor or the returns so furnished are not in accordance with law or if, after inspection of such returns, the Central Government has any reasonable cause to believe that any provision of this Act has been, or is being contravened, that Government may, by general or special order authorise such gazetted officer, holding a Group A post, as it may think fit, to audit any books of account kept or maintained by such organisation or association, as the case may be, and thereupon every such officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of auditing the said books of account:

Provide that any information obtained from such audit shall be kept confidential and shall not be disclosed except for the purposes of this Act.".

Insertion of new section 25A.

Prohibition of acceptance of foreign contribution. 9. After section 25 of the principal Act, the following section shall be inserted, namely:—

"25A. Notwithstanding anything contained in this Act, whoever, having been convicted of any offence under sub-section (1) of section 23 or section 25, in so far as such offence relates to the acceptance or utilisation of foreign contribution, is again convicted of such offence shall not accept any foreign contribution for a period of three years from the date of the subsequent conviction."

ZAIL SINGH, President.

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

CORRIGENDA

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In the National Capital Region Planning Board Ordinance, 1984 (11 of 1984), as published in the Gazette of India, Extraordinary, Part II, Section 1 (No. 89), dated the 19th October, 1984:—

- (i) at page 9, in line 35, for "Projects", read "Project";
- (iii) at page 12, in line 25, for "power", read "powers";
- (iii) at page 12, in line 32, for "carry to out", read "carry out";
- (iv) at page 14, in line 7, for "Tehsil", read "Tehsils";
- (v) at page 14, in line 19, for "Khurja, Sikanderabad"; read "Khurja and Sikanderabad".

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असाधारण EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

सं 0 91] No. 91] नई दिल्ली, सोमवार, ग्रझ्टूबर 22, 1984/ग्रश्विन 30, 1906

NEW DELHI, MONDAY, OCTOBER 22, 1984/ASVINA 30, 1906

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 October, 1984/Asvina 30, 1906 (Saka)

THE CALCUTTA METRO RAILWAY (OPERATION AND MAINTENANCE) TEMPORARY PROVISIONS ORIDNANCE, 1984.

No. 13 of 1984

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

An Ordinance to make temporary provisions for the operation and maintenance of the Calcutta metro railway and for matters connected therewith, pending the making of regular arrangements for such operation and maintenance.

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 Calcutta Metro Railway (Operation and Maintenance) Temporary Provisions Ordinance, 1984.
 - (2) It shall come into force at once.

Short title, commencement and application

Definitions

- (3) It shall apply to the metropolitan city of Calcutta.
- 2..(1) In this Ordinance, unless the context otherwise requires,—
- (a) "Calcutta metro railway administration" or "metro railway administration" means the General Manager of the metro railway appointed under section 3 of the Construction Act:
- (b) "commissioner" means a commissioner of the metro railway appointed under section 27 of the Construction Act;
- (c) "Construction Act" means the Metro Railways (Construction of Works) Act, 1978;
- (d) "metro railway" means such portion of the metro railway constructed in the metropolitan city of Calcutta under the provisions of the Construction Act as may, for the time being, be available for public carriage of passengers, and includes—
 - (i) all land within the boundary marks indicating the limits of the land appurtenant to the metro railway;
 - (ii) all lines of rails, sidings, yards or branches worked over for the purposes of, or in connection with, the metro railway;
 - (iii) all stations, offices, ventilation shafts and ducts, wherehouses, workshops, manufactories, fixed plants and machineries, sheds, depots and other works constructed for the purpose of, or in connection with, the metro railway;
 - (e) "prescribed" means prescribed by rules made under this Ordinance.
- (2) All other words and expressions used herein and not defined but defined in the Indian Railways Act, 1890, or the Metro Railways (Construction of Works) Act, 1978, shall have the meanings, respectively, assigned to them in those Acts.

9 of 1982 33 of 1978

33 of 1978

CHAPTER II

THE CALCUTTA METRO RAILWAY ADMINISTRATION

Calcutta
railway
administration
to be
responsible for the
operation
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Previous

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Central Government

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- 3. (1) Subject to the other provisions of this Ordinance, the Calcutta metro railway administration shall be responsible for the operation and maintenance of the metro railway.
- (2) The Calcutta metro railway administration may, for the efficient performance of its functions under this Ordinance, appoint such officers and other employees as it considers necessary on such terms and conditions of service as may be prescribed.
- 4. No metro railway shall be opened for the public carriage of passengers except with the previous sanction of the Central Government.
- (2) Before giving its sanction under sub-section (1), the Central Government shall, after considering the report given (whether before or after the commencement of this Ordinance) by the commissioner under clause (a) of sub-section (2) of section 27 of the Construction Act and other relevant factors, satisfy itself that the metro railway can be opened without danger to the public using it.

- (3) A sanction given under this section may be either absolute or subject to such conditions as the Central Government thinks necessary for the safety of the public.
- (4) Where any sanction for the opening of the metro railway under this section is given subject to any conditions, such railway shall not be worked or used until such conditions are fulfilled to the satisfaction of the Central Government.

CHAPTER III

SPECIAL PROVISIONS FOR THE RUNNING OF THE METRO RAILWAY

(1) No person shall, while travelling in the metro railway, carry with him any goods other than a small baggage containing personal belonging not exceeding such volume and weight as may be prescribed.

Carriage of goods,

- (2) Where any person travels in the metro railway in contravention of the provisions of sub-section (1), he shall, notwithstanding that he holds a valid pass or ticket for any travel in such railway, be liable to be removed from the train by any metro railway official authorised by the metro railway administration in this behalf or by any other person whom such metro railway official may call to his aid.
- 6. It shall not be necessary for the metro railway administration to reserve any compartment in any train for the exclusive use of females.

Reservation compartment for females not necessary. Dangerous or offensive goods.

- 7. (1) No person shall take or cause to be taken any dangerous or offensive goods upon the metro railway.
- (2) If any metro railway official has reason to believe that any such goods are contained in a package in the custody of any passenger, he may cause the package to be opened for the purpose of ascertaining its contents.
- 8. (1) If, in contravention of sub-section (1) of section 7, a person takes or causes to be taken any offensive goods upon the metro railway, he shall be punishable with fine which may extend to five hundred rupees.
- (2) If, in contravention of sub-section (1) of section 7, a person takes or causes to be taken any offensive goods upon the metro railway, he shall be punishable with imprisonment for a term which may extend to four years and with fine which may extend to five thousand rupees.
- (3) In addition to the penalties specified in sub-section (1) or sub-section (2), a person taking or causing to be taken any offensive goods or dangerous goods upon the metro railway shall be responsible also for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the metro railway.
- 9. (1) No person shall smoke in any compartment or carriage of the metro railway or in any underground metro railway station.
- (2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

Penalty for taking or causing to take offensive or dangerous goods upon the metro railway.

smoking in compartments, etc. (3) If any person persists in so smoking after being warned by any metro railway official to desist, he may, in addition to incurring the liability mentioned in sub-section (2), be removed from the compartment or carriage in which he is travelling or from the underground station at which he may be found smoking by any metro official authorised by the metro railway administration in this behalf.

Drunkenness or nuisance upon the metro railway

- 10. (1) If any person,—
 - (a) is in a state of intoxication; or
- (b) commits any nuisance or act of indecency, or uses obscene or abusive language; or
- (c) wilfully or without excuse interferes in any way with the comfort of any passenger,

in any carriage or upon any part of the metro railway, he shall be punishable with fine which may extend to two hundred and fifty rupees and shall also be liable to forfeiture of the fare which he may have paid or any pass or ticket which he may have obtained or purchased, or be removed from such carriage or part by any metro railway official authorised by the metro railway administration in this behalf.

(2) If any metro railway official is in a state of intoxication while on duty, he shall be punishable with fine which may extend to two hundred and fifty rupees, or, where the improper performance of the duty would be likely to endanger the safety of any passenger travelling or being upon the metro railway, with imprisonment for a term which may extend to two years, or with fine which may extend to five hunded rupees, or with both.

Prohibition demonstrations upon the metro railway.

- 11. (1) No demonstration of any kind whatsoever shall be held on any part of the metro railway or other premises thereof and it shall be open to the metro railway administration to exclude from such premises any person attending such demonstrations whether or not he is in possession of a pass or ticket entitling him to be in the said premises.
- (2) No person shall paste or put up any poster or write or draw anything or matter in any compartment or carriage of the metro railway, or any premises thereof, without any lawful authority and any person found engaged in doing any such act may be removed from the compartment, carriage or premises by any metro railway official authorised by the metro railway administration in this behalf.
- (3) Whoever contravenes any of the provisions of sub-section (1) or sub-section (2), or being asked by any metro railway official to leave any compartment, carriage or premises refuses to do so, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Penalty for travelling on roof, etc., train. 12. If any passenger travels on the roof of a train or persists in travelling in any part of a train not intended for the use of passengers or projects any part of his body out of a train after being warned by any metro railway official to desist, he shall be punishable with imprisonment for a term which may extend

to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to be removed from the train by any metro railway official authorised by the metro railway administration in this behalf.

- 13. (1) If a person enters into or upon the metro railway without any lawful authority or having entered with lawful authority remains there unlawfully and refuses to leave on being requested to do so by any metro railway official, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.
- (2) If any person walks on the metro railway line without any lawful authority, he 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.

14. If any metro railway official, when on duty, endangers the safety of any passenger,—

(a) by any rash or negligent act or omission; or

(b) by disobeying any rule or order which such official was bound by the terms of his employment to obey, and of which he had notice,

he shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to six thousand rupees, or with both.

15. If any metro railway official, when on duty, is entrusted with any responsibility connected with the running of a train, or any other rolling stock from one station or place to another station or place, and he abandons his duty before reaching such station or place, without authority or without properly handing over such train or rolling stock to another authorised metro railway official, he shall be punishable with imprisonment for a term which may extend to four years, or with fine which may extend to five thousand rupees, or with both.

16. If any person obstructs or causes to be obstructed or attempts to obstruct any train or other rolling stock upon the metro railway by squatting, picketing, or keeping without authority any rolling stock on the metro railway or tampering with any signalling installations or by interfering with the working mechanism thereof, or otherwise, he shall be liable to be removed by any metro railway official authorised by the metro railway administration in this behalf and shall also be punishable with imprisonment for a term which may extend to four years, or with fine which may extend to five thousand rupees, or with both.

17. (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 liabe 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 conatined 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

Penalty for unlawfully entering or remaining upon the metro railway or walking on the metro railway line.

Endangering the safety of passengers.

Abandoning train, etc., without authority.

Obstructing running of trains, etc.

Offences by companies.

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.

CHAPTER IV

MISCELLANEOUS

Application of Act 9 of 1890 and the rules etc., made there-under to the metro railway. Effect of Ordinance

18. Save as otherwise expressly provided in this Ordinance, the provisions of the Indian Railways Act, 1890, and the rules, orders or notifications made or issued thereunder shall, so far as may be, and subject to such modifications as may be necessary, apply to the operation and maintenance of the metro railway, as if such metro railway were a railway as defined under that Act, and the references to "railway administration" and "inspector" in that Act shall be construed as references to the "metro railway administration" and "commissioner" respectively.

9 of 1890

19. The provisions of this Ordinance or any rule made or any notification issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Ordinance or in any instrument having effect by virtue of any enactment other than this Ordinance.

Protection of action taken in good faith

and

rules, etc.,

inconsistent with other enactments.

- 20. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government, the metro railway administration or any officer or other employee of that Government or the metro railway administration for anything which is in good faith done or intended to be done under this Ordinance.
- (2) No suit, prosecution or other legal proceeding shall lie against the Central Government or the metro railway administration or any officer or other employee of that Government or the metro railway administration 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.

Power to remove difficulties.

21. If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order, do anything not inconsistent with such provisions which appears to it be necessary or expedient for the purpose, of removing the difficulty.

Power to make rules.

- 22. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:—
 - (a) the terms and conditions of service of the officers and other employees of the metro railway administration under sub-section (2) of section 3;

- (b) the cases in which and the extent to which the procedure specified in section 4 for the opening of the metro railway for public carriage of passengers may be dispensed with;
- (c) the volume and weight of the baggage containing personal belongings that may be carried by a person while travelling in the metro railway;
 - (d) any other matter which is required to be, or may be, prescribed.
- (3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

ZAIL SINGH,

President

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

REGISTERED No. D-(D)-72



असाधारण EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

सं0 92]

नई दिल्ली, मंगलवार, नवम्बर 20, 1984/कार्तिका 29, 1906

No. 92]

NEW DELHI, TUFSDAY, NOVEMBER 20, 1984/KARTIKA 29, 1906

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 20th November, 1984/Kartika 29, 1906 (Saka)

THE SUGAR UNDERTAKINGS (TAKING OVER OF MANAGEMENT) AMENDMENT ORDINANCE, 1984

No. 14 OF 1984

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

An Ordinance further to amend the Sugar Undertakings (Taking Over of Management) Act, 1978.

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 Sugar Undertakings (Taking Over Short of Management) Amendment Ordinance, 1984.

Short title and commencement.

Exercise by the capable Mannouty covaringue of free frees white noise which are x_i

(2) It shall come into force at once.

Amenament of section 3 of Act 49 of 1978. 2. In section 3 of the Sugar Undertakings (Taking Over of Management) Act, 1978, in the proviso to sub-section (5), for the words "six years", the words "seven years" shall be substituted.

ZAIL SINGH, President.

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

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असाधारण EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

सं 93] नई दिल्ली, मंगनवार, नवम्बर 20, 1984/क तिका 29, 1906 No. 93] NEW DELHI, TUESDAY, NOVEMBER 20, 1984/KARTIKA 29, 1906

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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 20th November, 1984/Kartika 29, 1906 (Saka)

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ORDINANCE, 1984

No. 15 of 1984

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

An Ordinance further to amend the Representation of the People Act, 1951.

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 Representation of the People (Amendment) Ordinance, 1984.
 - (2) It shall come into force at once.

Short title and commencement. Insertion of new section 73A.

Special provision as to certain elections.

2. In the Representation of the People Act, 1951, after section 73, the follow- 43 of 1951. ing section shall be inserted, namely:—

- "73A. Notwithstanding anything contained in section 73 or in. any other provision of this Act, with respect to the general election for the purpose of constituting a new House of the People upon the expiry of the term of the House of the People in existence on the commencement of the Representation of the People (Amendment) Ordinance, 1984,—
 - (a) the notification under section 73 may be issued without taking into account the Parliamentary constituencies in the State of Assam and the Parliamentary constituencies in the State of Punjab; and
 - (b) the Election Commission may take the steps in relation to elections from the Parliamentary constituencies in the State of Assam and the Parliamentary constituencies in the State of Punjab separately and in such manner and on such dates as it may deem appropriate.".

ZAIL SINGH,
President.

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

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