

# **The Great Eastern Hotel (Taking Over of Management) Act, 1975**

WEST BENGAL

India

## **The Great Eastern Hotel (Taking Over of Management) Act, 1975**

### **Act 32 of 1975**

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The Great Eastern Hotel (Taking Over of Management) Act, 1975 West Bengal Act 32 of 1975 [7th September, 1975.] Assent of the Governor was published in the Calcutta Gazette, Extraordinary, dated the 7th September, 1975. An Act to provide for the taking over of the management of the undertaking of the Great Eastern Hotel Limited for a limited period in the public interest and in order to secure the proper management thereof. Whereas it is expedient to provide for the taking over of the management of the undertaking of the Great Eastern Hotel Limited for a limited period in the public interest and in order to secure the proper management thereof; It is hereby enacted as follows:-

### **1. Short title.**

- This Act may be called the Great Eastern Hotel (Taking over of Management) Act, 1975.

### **2. Definitions.**

- In this Act, unless of context otherwise requires, -(a) "appointed day" means the ninth day of July, one thousand nine hundred and seventy-five; (b) "company" means the Great Eastern Hotel Limited; (c) "prescribed" means prescribed by rules made under this Act; (d) "undertaking of the company" means the properties of the company, both movable and immovable, cash balances, reserve funds and other assets of the company including lands, buildings, machineries, plants, furniture, equipments, stores and any other property which may be in the ownership, possession, custody or control of the company immediately before the commencement of this Act.

### **3. Taking over of management of the undertaking of the company.**

(1)The State Government may, by an order published in the Official Gazette, take over the management of the undertaking of the company and appoint an officer not below the rank of a Deputy Secretary to the State Government (hereinafter referred to as the Administrator), for managing the undertaking of the company in accordance with the provisions of this Act and the rules made thereunder.(2)An order made under sub-section (1) shall remain in force for a period of [five years] [Words substituted for the words 'three years' by W.B. Act 35 of 1978.] from the date of its publication in the Official Gazette.

### **4. Effect of an order made under section 3.**

- With effect from the appointed day -(i)the Administrator appointed under section 3 shall have all the powers of management in relation to the undertaking of the company;(ii)all persons exercising any power of management in relation to the undertaking of the company, including persons holding offices as Directors, Agents or Managers, as the case may be, immediately before the appointed day, shall cease to exercise such power;(iii)persons employed in connection with the undertaking of the company and continuing in office immediately before the appointed day shall be employed by the State Government on such terms and conditions, not being less advantageous than what they were entitled to immediately before the appointed day, as may be determined by the State Government by rules made in this behalf.

### **5. Use of properties under the management of the State Government.**

- All properties which remain under the management of the State Government under this Act shall be used for the purposes for which they were being used immediately before the appointed day and upon the expiry of the period of [five years] [Words Substituted for the words 'three years' by W.B. Act 35 of 1978.] the management of such properties shall revert to the company.

### **6. Persons to assist the Administrator.**

(1)The State Government may appoint one or more persons, to be called Deputy Administrators, to assist the Administrator in carrying out his functions under this Act.(2)A Deputy Administrator shall exercise such powers and discharge such duties as may be entrusted to him by the Administrator.

### **7. Penalty.**

(1)Any person, who -(a)having in his possession, custody or control any property forming part of the undertaking of the company, wrongfully withholds such property from the Administrator, or(b)wrongfully obtains possession of any property forming part of the undertaking of the company, or(c)wilfully withholds or fails to produce to any person authorised under this Act, any register, record or other document which may be in his possession, custody on control, or(d)fails, without

any reasonable cause, to submit any accounts, books or other documents when required to do so, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees or with both. (2) All offences under this section shall be cognizable.

## **8. Power of Administrator to institute or defend suits and proceedings.**

- The Administrator shall have the power to institute, defend or take part in, any suit or proceeding by or against the company, relating to the undertaking of the company.

### **8A. [ Power of Administrator to borrow. [Section 8A inserted by W.B. Act 35 of 1978.]**

(1) The Administrator may, with the previous sanction of the State Government, borrow money from banks or other financial institutions for the purpose of efficiently managing the business of the company. (2) All moneys borrowed under sub-section (2) may be guaranteed by the State Government as to the repayment of principal and the payment of the interest on such terms and conditions as the State Government may determine at the time the moneys are borrowed.]

## **9. Advances by State Government.**

(1) The State Government may, on the application made by the Administrator in this behalf, advance moneys to the company for the purpose of efficiently managing the business of the company and all such moneys shall be repaid by the company with such interest as may be prescribed. (2) Any money advanced to the company under sub-section (2) shall, subject to the prior payment of municipal rates and any sum due to Government on account of taxes or fees, be a first charge upon the undertaking of the company.

## **10. Contracts, agreements, etc. to remain suspended.**

- The State Government may, if it is satisfied that it is necessary or expedient so to do, direct, by notification that the operation of all contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force to which the company is a party or which may be applicable to the company immediately before the appointed day, shall remain suspended and all rights, privileges, obligations and liabilities accruing or arising thereunder before the said date shall remain suspended or shall be enforceable with such modifications and in such manner as may be specified in such notification.

## **11. Overriding effect of notification under section 10.**

- A notification issued under section 10 shall have effect notwithstanding anything to the contrary contained in any other law, agreement or instrument or any decree or order of any court, tribunal, officer or other authority.

## **12. Suspension or modification of certain remedies, etc.**

- Any remedy for the enforcement of any right, privilege, obligation or liability referred to in section 10 and suspended or modified by a notification under that section shall, in accordance with the terms of the notification, remain suspended or modified, and all proceedings relating thereto pending before any court, tribunal, officer or other authority shall accordingly be stayed or be continued subject to such modification so, however, that on the notification ceasing to have effect-(a)any right, privilege, obligation or liability so suspended or modified shall revive and be enforceable as if the notification had never been issued; and(b)any proceeding so stayed shall be proceeded with subject to the provisions of any law which may then be in force from the stage which had been reached when the proceeding was stayed.

## **13. Period of limitation.**

- In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in section 10, the period during which it or the remedy for the enforcement thereof was suspended, shall be excluded.

## **14. Protection of action taken under the Act.**

- No suit, prosecution or other legal proceeding shall lie against the State Government or the Administrator or any other person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

## **15. Power to remove difficulties.**

- If any difficulty arises in giving effect to the provisions of this Act the State Government may take such steps or issue such orders not inconsistent with this Act as may be necessary for the removal of the difficulty.

## **16. Power to make rules.**

(1)The State Government may make rules for carrying out the purposes of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for -(a)the management of the undertaking of the company,(b)the terms and conditions of service of the Administrator and other persons appointed for the purpose of carrying out the provisions of this Act, and(c)any other matter which has to be, or may be, prescribed.

## **17. Repeal and savings.**

(1)The Great Eastern Hotel (Taking over of Management) Ordinance, 1975, is hereby repealed.(2)Anything done or any action taken under the Great Eastern Hotel (Taking over of Management) Ordinance, 1975, shall be deemed to have been validly done or taken under this Act as

if this Act had commenced on the eighth day of July, 1975.