

The Great Eastern Hotel (Acquisition of Undertaking) Act, 1980

WEST BENGAL

India

The Great Eastern Hotel (Acquisition of Undertaking) Act, 1980

Act 27 of 1980

- Published on 17 July 1980
- Commenced on 17 July 1980
- [This is the version of this document from 17 July 1980.]
- [Note: The original publication document is not available and this content could not be verified.]

The Great Eastern Hotel (Acquisition of Undertaking) Act, 1980 West Bengal Act 27 of 1980 [17th July, 1980.] Assent of the President was published in the Calcutta Gazette, Extraordinary, dated the 17th July, 1980. An Act to provide for the acquisition of the undertaking of the Great Eastern Hotel Limited. Whereas it is expedient to provide for the acquisition of the undertaking of the Great Eastern Hotel Limited for the purpose of ensuring better facilities for board and lodging to the members of the public and for matters connected therewith or incidental thereto; It is hereby enacted as follows:-

1. Short title.

- This Act may be called the Great Eastern Hotel (Acquisition of Undertaking) Act, 1980.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) "appointed day" means the date on which this Act comes into force; (b) "company" means the Great Eastern Hotel Limited; (c) "Hotel Authority" means the Great Eastern Hotel Authority constituted under section 5; (d) "notification" means a notification published in the Official Gazette; (e) "prescribed" means prescribed by rules made under this Act; (f) "undertaking of the company" means the properties, 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 in relation to its undertaking immediately before the appointed day and all books of accounts, registers and other documents of whatever nature relating thereto.

3. Acquisition of the undertaking of the company.

(1) On and from the appointed day, the undertaking of the company shall, by virtue of this Act, stand transferred to, and vest absolutely in, the State Government. (2) [Upon the vesting of the undertaking of the company in the State Government under sub-section (2), the State Government may, for efficient management and administration thereof, provide by notification for the transfer of the undertaking of the company (save the lands and buildings forming part thereof) to, and vesting thereof in, the Hotel Authority with effect from such date as may be specified in the notification.] [[Sub-Section (2) substituted by W.B. Act 37 of 1989. Original sub-Section (2) was as under:-(2) Upon the vesting of the undertaking of the company in the State Government under sub-section (1), the State Government shall, for efficient management and administration thereof, provide by notification for the transfer of the undertaking of the company to, and vesting thereof in, the Hotel Authority with effect from such date as may be specified in the notification.']](3) [The State Government may allow the lands and buildings mentioned in sub-section (2) to be used by the Hotel Authority for the purpose of giving effect to this Act on such terms and conditions as may be provided by notification with effect from the date of issue of the notification under sub-section (2).] [Sub-Section (3) inserted by W.B. Act 37 of 1989.]

4. General effect of vesting.

(1) The undertaking of the company which has vested in the State Government under sub-section (2) of section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting it, and any attachment, injunction or decree or order of any court or tribunal restricting the use of the whole or any part of the undertaking of the company in any manner shall be deemed to have been withdrawn. (2) Any contract, whether express or implied, or other arrangement, whether under any statute or otherwise, in so far as it relates to the affairs of the company in relation to its undertaking and in force immediately before the appointed day shall be deemed to have terminated on the appointed day. (3) Where any licence or other instrument in relation to the undertaking of the company had been granted at any time before the appointed day to the company by the Central Government or the State Government or any other authority, the State Government shall, on and from the appointed day, be deemed to be substituted in such licence or other instrument in place of the company referred to therein as if such licence or other instrument had been granted to it. (4) On and from the date of transfer of the undertaking of the company to, and vesting thereof in, the Hotel Authority, that Authority shall be deemed to be substituted in the licence or other instrument referred to in sub-section (3) in place of the State Government as if such licence or other instrument had been granted to the Hotel Authority. (5) Any liability incurred by the company (including the liability, if any, arising in respect of any loans or amounts advanced by the State Government to the company together with interest thereon) after the management of the undertaking of the company had been taken over by the State Government shall, on and from the appointed day, be the liability of the State Government and shall, on and from the date specified in the notification under sub-section (2) of section 3, stand transferred to, and shall vest in, the Hotel Authority. (6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any matter or business in respect of the undertaking of the company, 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 undertaking of the company or of anything contained in this Act and the suit, appeal or other proceeding may be continued, proceeded with and enforced by or against the State Government and on and from the date specified in the notification under sub-section (2) of section 3, the Hotel Authority.(7)Any person in possession or custody or control of the whole or any part of the undertaking of the company on the date immediately before the appointed day shall, on the appointed day, deliver the possession of such undertaking of the company or part thereof to the State Government or to such person as may be specified by the State Government in this behalf.(8)The State Government may take, or cause to be taken, such steps as it considers necessary for securing the possession of the undertaking of the company which has vested in the State Government under sub-section (1) of section 3.

5. Hotel Authority.

- (2) As soon as may be after the coming into force of this Act, the State Government shall by notification constitute a Hotel Authority to be called the Great Eastern Hotel Authority.(2)The Hotel Authority shall be a body corporate having perpetual succession and a common seal, shall have power to acquire, hold and dispose of property, both movable and immovable, to enter into contracts and to do all other things necessary for the purposes of this Act and shall by its name sue and be sued.

6. Composition of the Hotel Authority.

(1)The Hotel Authority shall consist of the following members:-(a)a Chairman,(b)a Vice-Chairman, and(c)five other members,to be appointed by the State Government.(2)The Chairman, the Vice-Chairman and five other members shall be nominated by the State Government of whom:-(a)one shall be chosen from among persons associated with any of the banks specified in column 2 of the First Schedule to [the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970,] [Words, brackets and figures Substituted for the words, brackets and figures 'the Banking Companies (Acquisition and Transfer of Undertakings) Act. 1969.' by W.B. Act 11 of 1981.](b)one shall be chosen from among persons actively engaged in business as hoteliers, and(c)one shall be chosen from among persons connected with the tourism industry as travel agents or otherwise.(2A)[The Hotel Authority shall have a Secretary who shall be appointed by the State Government from among the members of the Hotel Authority.] [Sub-Section (2A) inserted by W.B. Act 29 of 1981.](3)The Chairman shall exercise such powers and discharge such duties as may be prescribed.(4)[The Secretary shall exercise such powers and discharge such duties as may be delegated to him by the Chairman.(4A)The Chairman, if and when he is required to act as a whole-time Chairman of the Hotel Authority, shall, in addition to the fees to which he is otherwise entitled under sub-section (5), draw such remuneration from the Fund of the Hotel Authority as may be prescribed:Provided that if the Chairman is a whole-time Government employee, he shall not be entitled to the fees as aforesaid.(4B)The Secretary, if and when he is required to act as a whole-time Secretary of the Hotel Authority, shall, in addition to the fees to which he is otherwise entitled under sub-section (5), draw such remuneration from the Fund of the Hotel Authority as may be prescribed :Provided that if the Secretary is a whole-time Government employee, he shall

not be entitled to the fees as aforesaid.] [[Sub-sections (4), (4A) and (4B) Substituted for original sub-Section (4) by W.B. Act 29 of 1981. Original sub-Section (4) was as under:-'(4) The Vice-Chairman shall exercise such powers and discharge such duties as may be delegated to him by the Chairman and shall, during the absence of the Chairman, exercise the powers and discharge the duties of the Chairman.'.] (5) The members referred to in [sub-section (1)] [Word, brackets and figure substituted for the word, brackets and figure 'sub-section (3)' by W.B. Act 11 of 1981.] shall hold office for a term of two years computed from the date of their appointment by the State Government and shall receive such fees for attending the meetings of the Hotel Authority or any committee thereof as may be prescribed. (6) No act or proceedings of the Hotel Authority or of any committee thereof shall be invalid or called in question by reason merely of any vacancy, initial or subsequent, in, or any defect in the constitution of, the Hotel Authority or any committee thereof.

7. Meetings of the Hotel Authority.

- The Hotel Authority shall meet at such place and at such time, and shall observe such rules or procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be prescribed.

8. Power of the Hotel Authority to borrow and to dispose of immovable property.

(1) The Hotel Authority may, with the previous approval of the State Government, borrow money for carrying out the purposes of this Act or for servicing any loan obtained by it. (2) The Hotel Authority shall not, without the prior approval of the State Government, dispose of any immovable property belonging to that Authority.

9. Fund of the Hotel Authority.

- There shall be a Fund for the Hotel Authority to which shall be credited -(a) loans and advances, if any, granted to the Hotel Authority by the State Government, (b) all monies borrowed by the Hotel Authority, (c) all receipts on account of rents, rates and other charges, (d) such other sums as may be received by the Hotel Authority from the State Government or any other authority or agency.

10. Power to appoint staff.

(1) The Hotel Authority create such posts and appoint such staff as it may think fit for the exercise of its powers and discharge of its duties under this Act : Provided that prior approval of the Government shall be necessary for -(i) creation of any post, the maximum of the pay scale of which exceeds Rs. 1500.00 per month, and (ii) any revision of scales of pay and allowances. (2) Every expenditure incurred by the Hotel Authority, including the expenditure incurred by it for meeting the salaries and allowances of the staff employed by it, shall be defrayed out of the Fund of the Hotel Authority. (3) The Hotel Authority shall obtain prior approval of the Government before undertaking any project involving capital expenditure exceeding rupees five lakhs.

11. Functions of the Hotel Authority.

- Subject to such rules as may be made by the State Government in this behalf, the Hotel Authority shall be responsible for -(a)the general superintendence, direction, control and management of the affairs and business of the company,(b)the formulation, subject to the approval of the State Government, of plans for the development of the company and the execution of such plans.

12. Payment of compensation.

(1)The State Government shall deposit, in cash, in the Court of the Chief Judge of the City Civil Court, Calcutta, to the credit of the company, the sum of rupees seventy-three lakhs as compensation for the transfer to, and vesting in, the State Government, under sub-section (1) of section 3, of the undertaking of the company.(2)For the removal of doubts, it is hereby declared that the liabilities of the company, other than the liabilities referred to in sub-section (5) of section 4, in relation to its undertaking which has vested in the State Government under sub-section (1) of section 3 shall be met from the amount referred to in sub-section (1) of this section.(3)Every person having a claim against the company shall prefer such claim before the Chief Judge of the City Civil Court, Calcutta, within a period of 30 days from the date as the State Government may by notification specify :Provided that if the Chief Judge is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of 30 days, he may entertain the claim within a further period of 30 days but not thereafter.(4)In meeting under this section the liabilities of the company in relation to its undertaking which has vested in the State Government under sub-section (1) of section 3, the Court shall distribute the amount referred to in sub-section (2) of this section amongst the creditors of the company, whether secured or unsecured, in accordance with their rights and interests, and if there is any surplus left after such distribution, amongst the contributories of the company in accordance with the rights and interests of such contributories.

13. 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 State Government or any person authorised by that Government in this behalf, or(b)wrongfully obtains possession of, or retains, any property forming part of the undertaking of the company or wilfully withholds or fails to furnish to the State Government or any person specified by that Government any document relating to the undertaking of the company which may be in his possession, custody or control or fails to deliver to the State Government or any person specified by that Government any assets, books of account, registers or other documents in his custody relating to the undertaking of the company, or(c)wrongfully removes or destroys any property forming part of the undertaking of the company or prefers any claim under this Act which he knows or has reasons 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 :Provided that the court trying any offence punishable under this Act may, at the time of convicting the accused person, order him to deliver or refund within such time as may be fixed by the court such property or any part thereof

wrongfully withheld or wrongfully obtained or retained or such document wilfully withheld or not furnished or such assets, books of account, registers or other documents not delivered.(2)No court shall take cognizance of any offence punishable under this Act except with the previous sanction of the State Government or of an officer authorised by that Government in this behalf.

14. Offences by companies.

(1)Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation. - For the purposes of this section, -(a)"company" means any body corporate and includes a firm or other association of individuals; and(b)"director", in relation to a firm, means a partner in the firm.

15. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the State Government or any officer or other employee serving in connection with the affairs of the undertaking of the company for anything which is in good faith done or intended to be done under this Act.

16. Employees to continue in service.

(1)Every person employed in connection with the affairs of the undertaking of the company, who has been in such employment immediately before the appointed day, shall continue to hold office after the coming into force of this Act with the same rights and privileges as to pension, gratuity and other matters to which he was entitled immediately before the appointed day and shall, on and from the date specified in the notification under sub-section (2) of section 3, become an employee of the Hotel Authority and shall hold office under the Hotel Authority on the same terms and conditions as before and shall continue to do so unless and until his employment under the Hotel Authority is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the Hotel Authority.(2)Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law in force for the time being, the transfer of services of any officer or other employee from the company to the Hotel Authority or to any other post shall not entitle such officer or other employee to any compensation under this Act or any other law in force for the time being and no such claim shall be entertained by any court, tribunal or other authority.

17. Act to override other laws.

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

18. Delegation of powers.

(1)The State Government may by notification direct that all or any of the powers exercisable by it under this Act, other than the power to make rules, 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 or persons to whom the power has been delegated shall act under the direction, control and supervision of the State Government.

19. Power to make rules.

(1)The State Government may by notification 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 all or any of the matters which may be, or are required to be, prescribed.

20. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order not inconsistent with the provisions of this Act, remove the difficulty:Provided that no such order shall be made after the expiry of a period of two years from the date of coming into force of this Act.