

The West Bengal Relief Undertakings (Special Provisions) Act, 1972

WEST BENGAL

India

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Act 13 of 1972

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The West Bengal Relief Undertakings (Special Provisions) Act, 1972 West Bengal Act 13 of 1972 [4th May, 1972.] Assent of the President was published in the Calcutta Gazette, Extraordinary, dated the 4th May, 1972. An Act to enable the State Government to make special provisions for a limited period in respect of industrial relations, financial obligations and other like matters in relation to industrial undertakings the running of which is considered essential as a measure of preventing, or of providing relief, against unemployment. Whereas it is expedient to enable the State Government to make special provisions for a limited period in respect of industrial relations, financial obligations and other like matters in relation to industrial undertakings the running of which is considered essential as a measure of preventing, or or providing relief, against unemployment; It is hereby enacted as follows :-

1. Short title and extent.

(1) This Act may be called the West Bengal Relief Undertakings (Special Provisions) Act, 1972. (2) It extends to the whole of West Bengal.

2. Definitions.

- In this Act, unless the context otherwise requires, -(1) "Government company" has the meaning assigned to it in section 617 of the Companies Act, 1956; (2) "industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen, and the word "industrial" shall be construed accordingly; (3) "notification" means a notification published in the Official Gazette; (4) "relief undertaking" means a State industrial undertaking in respect of which a declaration under section 3 is in force; (5) "State industrial undertaking" means an industrial

undertaking -(a)which is started or which, or the management of which, is under any law or agreement acquired or otherwise taken over by the State Government or by a Government company and is run or proposed to be run by, or under the authority of, the State Government or a Government company; or(b)to which any loan, advance, or grant has been given, or in respect of any loan whereof, a guarantee has been given, by the State Government or a Government company.

3. Declaration of relief undertaking.

- The State Government may, if it is satisfied that it is necessary or expedient so to do in the public interest, with a view to enabling the continued running, or re-starting of a State industrial undertaking as a measure of preventing, or of providing relief against, unemployment, declare, by notification, that the State industrial undertaking shall, on and from such date and for such period as may be specified in the notification, be a relief undertaking: Provided that the period so specified shall not, in the first instance, exceed one year but may, by a like notification, be extended, from time to time, by any period not exceeding one year at any one time, so, however, that no notification issued under this section shall in any case remain in force for more than [twenty years] [Words 'seven years' first Substituted for the words 'five years' by W.B. Act 36 of 1974, then again the words 'ten years' Substituted for the words 'seven years' by W.B. Act 45 of 1978, thereafter the word 'fifteen years' Substituted for the words 'ten years' by W.B. Act 17 of 1981, and finally the words within third brackets Substituted for the words 'fifteen years' by W.B. Act 25 of 1986.] in the aggregate.

4. Application of certain enactments and contracts, agreements etc., to relief undertaking.

- The State Government may, if it is satisfied that it is necessary or expedient so to do for the purposes specified in section 3, direct, by notification, -(a)that in relation to any relief undertaking all or any of the enactments specified in the Schedule to this Act shall not apply or shall apply with such adaptations, whether by way of modification, addition or omission (which does not, however, affect the policy of the said enactments), as may be specified in such notification; or(b)that the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force (to which any relief undertaking is a partly or which may be applicable to any relief undertaking) immediately before the date on which the State industrial undertaking is declared to be a relief undertaking, shall remain suspended or that all or any of the rights, privileges, obligations and liabilities accruing or arising thereunder before the said date, shall remain suspended or shall be enforceable with such modifications and in such manner as may be specified in such notification.

5. Overriding effect of notification under section 4.

- A notification issued under section 4 shall have effect notwithstanding anything to the contrary contained in any other law, agreement or instrument or any decree or order of a Court, tribunal, officer or other authority.

6. Suspension or modification of certain remedies, rights, etc., stay of proceedings, their revival and continuance.

- Any remedy for the enforcement of any right, privilege, obligation or liability referred to in clause (b) of section 4 and suspended or modified by a notification under that section shall, in accordance with the terms of the notification, be 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 state which had been reached when the proceeding was stayed.

7. Period of limitation.

- In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in clause (b) of section 4, the period during which it or the remedy for the enforcement thereof was suspended, shall be excluded.

8. Power to make rules.

(1) The State Government may, subject to the condition of previous publication, make rules to carry out the provisions 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 following matters, namely :- (a) the rates of wages payable to the workmen and their work loads and the salary payable to the staff, the payment of bonus, gratuity, compensation, and other benefits; (b) the manner in which the relief undertaking should be run; (c) the strength of staff and labour to be employed for running the relief undertaking economically; (d) the manner in which the net profits or net losses or surplus funds should be appropriated or disposed of; (e) the percentage of profits to be utilised for the benefit of the persons employed in the undertaking and the manner of its utilisation; (f) the manner in which, and the extent to which the representatives of the workmen may be associated with, or may participate in the management of the relief undertaking. (3) All rules made under this section shall, as soon as possible after they are made, be laid before the Legislative Assembly for a period of not less than fourteen days and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

9. Repeal and savings.

(1) The West Bengal Relief Undertakings (Special Provisions) Ordinance, 1972, is hereby repealed. (2) Anything done or any action taken under the West Bengal Relief Undertakings (Special Provisions) Ordinance, 1972, shall be deemed to have been validly done or taken under this Act as if this Act had commenced on the 1st day of March, 1971. The Schedule [See section 4(a)]

- 1. The Industrial Employment (Standing Orders) Act, 1946 (20 of 1946).**
- 2. The Industrial Disputes Act, 1947 (14 of 1947).**
- 3. The Minimum Wages Act, 1948 (11 of 1948).**
- 4. The West Bengal Shops and Establishments Act, 1963 (West Bengal Act XIII of 1963).**