

The Indian Iron And Steel Company (Taking Over Of Management) Act, 1972

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Act 50 of 1972

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1. The production of steel is vital to the economy of the country. At present, there is a wide gap between the demand and the domestic production. It is, therefore, imperative that the production from the existing Steel Plants is increased to the maximum extent possible. 2. Government were viewing with great concern the progressive decline in the production of the Steel Plant of Indian Iron and Steel Company Ltd., and the deterioration in the condition of the Plant, resulting from lack of adequate attention to maintenance. Against the rated capacity of the Plant of one millions tonnes of steel ingots, the production which was 10,27,000 tonnes in 1963-64 had fallen to 6,17,000 tonnes in 1971-72 and the indications were that the performance during 1972-73 would be substantially worse than in 1971-72. The management of the company had been unable to halt the steady deterioration in production prospects. There had also been no recognition on their part of the urgency of implementing schemes for the modernisation of the Plant and its expansion. Government could not, therefore, watch passively the deteriorating state of affairs in the company. 3. Government, therefore, decided to take over the management of the undertaking for a limited period of two years to secure the proper management of the company and to subserve the public good in the context of the steel requirements of the country. The management of the undertaking was, therefore, taken over by the Central Government with effect from the 14th July, 1972 under the Indian Iron and Steel Company (Taking Over of Management) Ordinance, 1972. 4. The Bill seeks to replace the Ordinance. - See Gazette of India, 16-8-1972, Pt. II, Section 2, Ext., P. 744. Act 36 of 1974 Through the Indian Iron and Steel Company (Taking Over of Management) Act, 1972, the management of Indian Iron and Steel Company Limited was taken over by the Central Government for a period of two years with effect from the 14th July, 1972, to secure the proper management of the Company and to

subserve the public good in the context of the steel requirements of the country.

2. While substantial progress has been made to restructure and streamline administrative setup of the Company and also to carry out comprehensive programme for rehabilitation of the various items of plant and equipment, it has not been possible to complete this, within the limited period of two years. It is considered essential that the technical health of the plant should be improved through completion of the Rehabilitation Scheme so that production in the plant is brought to its rated level. Apart from this, continuity of control over the management of the Company seems necessary to safeguard the substantial investment in the Company by various Public Sector Institutions and further investment of Rs. 43 crores on Plant Rehabilitation. In the circumstances, it has been considered necessary that the period of take over of the management of the company by the government could continue for a further period of three years with effect from the 14th July, 1974 with a power to extend the period, it considered necessary, for a further period of five years.

3. After the initial take over of the management of the company, the management was carried on through a custodian appointed by Government and assisted by an Advisory Board constituted by Government. This arrangement has not been found to be satisfactory and it is, therefore, proposed that during the extended period, a Board of Management should be provided to run the management of the company. There will be an Administrator who will work under the supervision and the guidance of the Board of management which itself will work under the supervision, direction and control of the Central Government. 4. Accordingly, the Bill seeks to extend the period of take over of the management of the company by Government by a period of three years with effect from the 14th July, 1974 and further seeks to replace the Ordinance which was promulgated by the President for the purpose - See Gazette of India, 25-7-1974, Pt. 11, Section 2 Ext., p.693. [3rd September, 1972] An Act to provide for the taking over of the management of the undertaking of the Indian Iron and Steel Company Limited for a limited period in the public interest and in order to secure the proper management of the undertaking. Be it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:-

Chapter I

Preliminary

1. Short title and commencement.

(1) This Act may be called the Indian Iron and Steel Company (Taking over of Management) Act, 1972. (2) It shall be deemed to have come into force on the 14th day of July, 1972.

2. Definitions.

In this Act, unless the context otherwise requires,--(a)"appointed day" means the 14th day of July, 1972;(aa)["Board of management" means the Board of management constituted under section 4A;] [Inserted by Act 36 of 1974, Section 2 (w.e.f. 28-6-1974)](b)"company or "Indian Iron and Steel Company" means the Indian Iron and Steel Company Limited, being a company as defined in the Companies Act, 1956 (1 of 1956), having its registered office at Martin Burn House, 12, Mission Row, Calcutta;(c)"Custodian" means the person appointed under section 4 to take over the management of the undertaking of the company;(d)"prescribed" means prescribed by rules made under this Act;(e)"undertaking", in relation to the company, means the property and assets of the company referred to in sub-section (2) of section 3;(f)words and expressions used but not defined in this Act and defined in the Companies Act, 1956 (1 of 1956), shall have the meanings respectively assigned to them in that Act.

Chapter II

Management Of The Undertaking Of The Indian Iron And Steel Company

3. Management of undertaking of the company to vest in Central Government.

(1)On and from the appointed day and for a period of [five years] [Substituted by Act 36 of 1974, Section 3, for "two years" (w.e.f. 28-6-1974)] thereafter, the management of the undertaking of the company shall vest in the Central Government:[Provided that if the Central Government is of opinion that it is expedient in the public interest that the management of the undertaking of the company should continue to vest in the Central Government after the expiry of the period of five years aforesaid, it may, from time to time, issue directions for such continuance for such further period, not exceeding two years at a time, as may be specified in the directions; so, however, that the total period of such continuance, including the period of five years aforesaid, shall not exceed ten years; and where any such direction is issued, a copy thereof shall be laid, as soon as may be, before both Houses of Parliament.] [Added by Act 36 of 1974 Section 3. (w.e.f. 28-6-1974)](2)The undertaking of the company shall be deemed to include all assets, rights, leaseholds (including mining leases, if any), powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, mines, workshops, projects, washeries, smelters, ropeways, stores, instruments, machinery, aircraft, locomotives, automobiles and other vehicles, cash balances, reserve fund, investments and book debts and all other rights and interests 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 undertaking, whether within or without India, and all books of account, registers, maps, plans, sections, drawings, records of survey and all other documents of whatever nature relating thereto.(3)Any contract, whether express or implied, or other arrangement, in so far as it relates to the management of the business and 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.(4)All persons in charge of the management, including persons holding offices as directors, managers or any other managerial personnel of the company immediately before the appointed day, shall be deemed to have vacated their offices as such on the appointed day.

4. Custodiarn of the company.

(1)The Central Government shall, as from the appointed day, appoint a person as the Custodian of the undertaking of the company for the npurpose of taking over the management thereof and the Custodian shall carry on the management of the undertaking of the company for and on behalf of the Central Government.(2)The Central Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) to the Custodian as to his powers and duties as the Central Government deems desirable and the Custodian may apply to the Central Government at any time for instructions as to the manner in which the Custodian shall conduct the management of the undertaking of the company or in relation to any matter arising in the course of such management.(3)Subject to the other provisions of this Act and to the control of the Central Government, the Custodian shall be entitled, notwithstanding anything contained in the Companies Act, 1956 (1 of 1956), to exercise all the powers of the Board of Directors of the company (including the powers to dispose of any properties or assets of the company) whether such powers are derived from the Companies Act, 1956, or from the memorandum and articles of association of the company or from any other source.(4)Every person having possession, custody or control of any property forming part of the undertaking of the company shall deliver forthwith such property to the Custodian or to any officer or other employee of the Central Government or the company as may be authorised by the Central Government in this behalf.(5)Any person who, on the appointed day, has in his possession or under his control any books, papers or other documents relating to the undertaking of the company, including the minutes books containing the resolutions of the persons in charge of the management before the appointed day, the current cheque books relating to the undertaking of the company, any letters, memoranda, notes or other communications between him and the company shall, notwithstanding anything contained in any law for the time being in force, be liable to account for the books, papers and other documents (including such minutes books, cheque books, letters, memoranda, notes or other communications) to the Custodian and shall deliver them up to the Custodian or to any such person (being an officer or other employee of the Central Government or the company) as may be authorised by the Central Government in this behalf.(6)Every person in charge of the management of the undertaking of the company immediately before the appointed day shall, within ten days from that day or within such further period as the Central Government may allow in this behalf, furnish to the Custodian a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) forming part of the undertaking of the company immediately before the appointed day and of all the liabilities and obligations of the company in relation to its undertaking subsisting immediately before that day and also of all agreements entered into by the company in relation to its undertaking and in force immediately before that day.(7)The Custodian shall receive from the funds of the undertaking of the company such remuneration as the Central Government may fix.

4A. [Board of management. [Inserted by Act 36 of 1974, Section 4 (w.e.f. 28-6-1974)]

(1) There shall be a Board of management consisting of a Chairman and not less than four and not more than fourteen other members. (2) The Chairman and the other members of the Board of management shall be appointed by the Central Government and shall hold office during the pleasure of that Government. (3) Such of the members of the Board of management as may be specified by the Central Government as whole-time members may be placed in charge of such functions of management of the undertaking of the company as may be specified by that Government. (4) The Chairman and the other members of the Board of management shall receive from the funds of the undertaking of the company such allowances as may be prescribed for attending any meeting of the Board of management.]

4B. [Board of management to manage the undertaking of the company. [Inserted by Act 36 of 1974, Section 4 (w.e.f. 28-6-1974)]

(1) On the [commencement] of the Indian Iron and Steel Company (Taking over of Management) Amendment Act, 1974 (36 of 1974), the Central Government may, by notification in the Official Gazette, direct that on and from such date as may be specified in the notification, the general superintendence, direction and management of the affairs and business of the undertaking of the company shall be carried on, for and on behalf of the Central Government, by the Board of management. (2) Subject to the other provisions of this Act and to the direction, control and supervision of the Central Government, the Board of management shall be entitled, notwithstanding anything contained in the Companies Act, 1956 (1 of 1956), to exercise, in relation to the undertaking of the company, all the powers of the Board of Directors of a company (including powers to dispose of any properties or assets of the company), whether such powers are derived from the Companies Act, 1956, or from the memorandum or articles of association of the company or from any other source.]

4C. [Appointment of an Administrator. [Inserted by Act 36 of 1974, Section 4 (w.e.f. 28-6-1974)]

(1) There shall be an Administrator, to be appointed by the Central Government, to assist the Board of management to manage the affairs of the undertaking of the company. (2) The Chairman or any other member of the Board of management may be appointed by the Central Government as the Administrator. (3) All officers and other persons employed in connection with the affairs of the undertaking of the company shall be subordinate to the Administrator. (4) The Administrator shall exercise, subject to the direction, control and supervision of the Board of management, such powers and discharge such functions of management in relation to the undertaking of the company as the Central Government may specify in this behalf. (5) The Administrator shall receive from the funds of the undertaking of the company such remuneration as the Central Government may fix.]

4D. Custodian to vacate office. [Inserted by Act 36 of 1974, Section 4 (w.e.f. 28-6-1974)]

(1)The Custodian shall, on and from the date on which the management of the undertaking of the company is taken over by the Board of management, vacate his office as such; but nothing in this sub-section shall be construed as prohibiting his appointment as a member of the Board of management or as the Administrator.(2)On the vacation of his office, the Custodian shall, where he is not appointed as the Administrator, forthwith deliver to the Administrator possession of all assets and properties of the company which are in his possession, custody and control on the date immediately preceding the date on which he vacates his office as the Custodian.]

4E. Meetings, etc., of the Board of management. [Inserted by Act 36 of 1974, Section 4 (w.e.f. 28-6-1974)]

(1)The Board of management shall meet for the transaction of its business at such time and place as it may think fit:Provided that the Chairman may, whenever he thinks fit, and shall, upon the written requisition of not less than two members, call a special meeting.(2)The quorum for a meeting of the Board of management shall be one-third of its total strength (any fraction contained in that one-third be rounded off as one) or three members, whichever is higher.(3)The Chairman, or in his absence, any member chosen by the members present from amongst themselves, shall preside at a meeting of the Board of management.(4)All questions which come up before any meeting of the Board of management shall be decided by a majority of votes of the members present and voting, and in the case of an equality of votes, the Chairman, or, in his absence, the person presiding, shall have a second or casting vote.(5)All orders and decisions of the Board of management shall be authenticated by the signature of the Chairman or any other member authorised by the Board of management in this behalf and all other instruments issued by the undertaking of the company shall be authenticated with the signature of the Administrator or any other officer of the undertaking of the company authorised by the Board of management in this behalf.(6)The Board of management shall regulate its own procedure.][* * * *] [Section 5 omitted by Act 36 of 1974, Section 5 (w.e.f. 28-6-1974)]

6. No right to compensation for termination of contract on office.

Notwithstanding anything contained in any law for the time being in force, no person in respect of whom any contract of management or other arrangement is terminated by reason of the provisions contained in sub-section (3) of section 3 or who ceases to hold any office by reason of the provisions contained in sub-section (4) of that section, shall be entitled to claim any compensation for the premature termination of the contract of management or other arrangement or for the loss of office.

7. Relinquishment of management of the undertaking of the company.

(1)Notwithstanding anything contained in sub-section (1) of section 3, if, at any time before the expiry of the [period of five years referred to in that sub-section or the further period specified in

any directions issued under the proviso thereto] [Substituted by Act 36 of 1974 s. 6, for certain words (w.e.f. 28-6-1974).], it appears to the Central Government that the purposes of the vesting of the management of the undertaking of the company in that Government have been fulfilled or for any other reason it is not necessary that the management of the undertaking of the company should remain vested in that Government, it may by order published in the Official Gazette relinquish the management of the undertaking of the company with effect from such date as may be specified in the order.(2)On and from the date specified in the order published under sub-section (1), the undertaking of the company shall be managed in accordance with the provisions of the Companies Act, 1956 (1 of 1956), so, however, that steps, if any, in relation to the management of the undertaking may be taken after the publication of the order under sub-section (1).

8. Application of Act 1 of 1956.

(1)Notwithstanding anything contained in the Companies Act, 1956, or in the memorandum or articles of association of the company, but subject to the provisions of sub-section (2) of section 7, so long as the management of the undertaking of the company remains vested in the Central Government,--(a)it shall not be lawful for the shareholders of the company or any other person to nominate or appoint any person to be a director of the company;(b)no resolution passed at any meeting of the shareholders of the company on or after the appointed day shall be given effect to unless approved by the Central Government;(c)no proceeding for the winding up of the company or for the appointment of a liquidator or receiver in respect thereof shall lie in any court except with the consent of the Central Government.(2)Subject to the provisions contained in sub-section (1), and to the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956 (1 of 1956), shall continue to apply to the company in the same manner as it applied thereto before the appointed day.

Chapter III

Miscellaneous

9. Penalties.

(1)Any person, who--(a)having in his possession or custody or under his control any property forming part of the undertaking of the company, wrongfully withholds such property from the [Administrator, Board of management or Custodian] [Substituted by Act 36 of 1974, S.7 (28-6-1974) for the word "Custodian"] or any person authorised under this Act, or(b)wrongfully obtains possession of any such property, or(c)wilfully retains any property forming part of the undertaking of the company or removes or destroys it, or(d)wilfully withholds or fails to deliver any books, papers or other documents which may be in his possession or custody or under his control to the [Administrator, Board of management or Custodian] [Substituted by Act 36 of 1974, Section 7, for the word "Custodian" (w.e.f. 28-6-1974)] or any person authorised under this Act, or(e)fails, without any reasonable cause, to furnish information or particulars as provided in sub-section (6) of section 4, 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.(2)No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or of an officer authorised by the Central Government in this behalf.

10. 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 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.

11. Exclusion of period of operation of Act.

In computing the period of limitation prescribed by law for the time being in force for any suit or application against any person by the company in respect of any matter arising out of any transaction in relation to the undertaking of the company, the time during which this Act is in force shall be excluded.

12. Act to have overriding effect.

The provisions of this Act or any notification, [direction,] [Inserted by , Section 8 (w.e.f. 28-6-1974)] order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court.

13. Protection of action taken in good faith.

(1)No suit, prosecution or other legal proceeding shall lie against the [Administrator, Board of management or Custodian] [Substituted by Act 36 of 1974 Section 9 for the word "Custodian" (w.e.f. 28-6-1974).] or any officer or other employee of the Central Government or the company for anything which is in good faith done or intended to be done under this Act.(2)No suit or other legal proceeding shall lie against the Central Government or the [Administrator, Board of management or Custodian] [Substituted by Act 36 of 1974 Section 9 for the word "Custodian" (w.e.f. 28-6-1974).] or any of the officers or other employees of the Central Government or the 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 Act.

14. Contracts in bad faith may be cancelled or varied.

(1) If the Central Government is satisfied, after such enquiry as it may think fit, that any contract or agreement entered into at any time within three years immediately preceding the appointed day, between the company or the managing agents of the company and any other person, in so far as such contract or agreement relates to the undertaking of the company, has been entered into in bad faith, or is detrimental to the interests of the undertaking of the company, it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such contract or agreement and thereafter the contract or agreement shall have effect accordingly: Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement reasonable opportunity of being heard. (2) Any person aggrieved by an order under sub-section (1) may make an application to the High Court at Calcutta for the variation or reversal of such order and thereupon such court may confirm, modify or reverse such order.

15. Powers to terminate contract of employment.

If the Custodian is of the opinion that any contract of employment entered into by the company or the managing agents of the company in relation to the undertaking of the company, at any time before the appointed day, is unduly onerous, he may, by giving to the employee one month's notice in writing or the salary or wages for one month in lieu thereof, terminate such contract of employment.

16. Power to make rules.

(1) The Central Government may, by notification in the Official Gazette, make rules to carry 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) [allowances which may be received by the Chairman and other members of the Board of management for attending any meeting of the Board of management;] [Substituted by Act 36 of 1974, Section 10, for cl. (a) (w.e.f. 28-6-1974).] (b) the procedure to be followed by the said Board. (3) Every rule made by the Central Government under this Act 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.

17. Repeal and savings.

(1) The Indian Iron and Steel Company (Taking over of Management) Ordinance, 1972 (Ord. 6 of 1972), is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provision of this Act.