

The M.P. Sahayata Upkram (Vishesh Upabandh) Adhiniyam, 1978

MADHYA PRADESH

India

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Act 32 of 1978

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The M.P. Sahayata Upkram (Vishesh Upabandh) Adhiniyam, 1978(M.P. Act No. 32 of 1978)[Dated 27th November, 1978]Received the assent of the President on the 27th November, 1978; assent first published in the "Madhya Pradesh Gazette" (Extraordinary), dated the 15th December, 1978).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, un-employment.Be it enacted by the Madhya Pradesh Legislature in the Twenty-ninth year of the Republic of India as follows :-

1. Short title and extent.

(1)This Act may be called the Madhya Pradesh Sahayata Upkaram (Vishesh Upbandh) Adhiniyam, 1978.(2)It extends to the whole of Madhya Pradesh.

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 (No. 1 of 1956);(2)"Industry" means any business, trade undertaking manufacture of 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)"relief undertaking" means a State industrial undertaking in respect of which a declaration under Section 3 is in force;(4)"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 Government Company; or(c)in respect of which a notified order under the Industries (Development and Regulation) Act, 1951 (No. 65 of 1951) is in operation.

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 such periods in the aggregate shall not exceed [ten years] [Substituted by M.P. Act No. 20 of 1988 (w.e.f. 14-11-1987).].

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

- That 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 party 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. Suspension of suits or other legal proceedings against relief undertakings.

- As from the date specified in the notification under [X X X] [Omitted by M. P. Act No. 29 of 1987.] Section 3, no suit or other legal proceeding shall be instituted or commenced or, if pending, shall be proceeded with against the industrial undertaking during the period in which it remains a relief undertaking any law, usage, custom, contract, instrument, decree, order, award, settlement or other provisions whatsoever notwithstanding.

6. Over-riding 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 Court, Tribunal, Officer or other authority.

7. 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 stage which had been reached when the proceeding was stayed.

8. Period of limitation.

- [(1)] [Re-numbered by M.P. Act No. 12 of 1986.] 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. (2) [] [Inserted by M.P. Act No. 12 of 1986.] In computing the period of limitation for the institution of suit or other legal proceeding against a relief undertaking the period during which the institution thereof remains suspended because of Section 3, shall be excluded.

9. Power to amend Schedule.

(1) The State Government may, by notification, amend the Schedule and thereupon the Schedule shall stand amended accordingly : Provided that no notification to amend the Schedule to add thereto any Acts made by Parliament shall be issued save with prior concurrence of the Central Government. (2) Every notification issued under sub-section (1) shall be laid on the table of the Legislative Assembly and the provisions of Section 24-A of the Madhya Pradesh General Clauses Act, 1957 (No. 3 of 1958), shall apply thereto as they apply to a rule.

10. 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.

11. Repeal.

- The Madhya Pradesh Sahayata Upkram (Vishesh Upbandh) Adhiniyam, 1965 (No. 25 of 1965), is hereby repealed.The Schedule(See Section 4)

1. The Industrial Employment (Standing Orders) Act, 1946 (No. 20 of 1946).

2. The Industrial Disputes Act, 1947 (No. 14 of 1947).

3. The Minimum Wages Act, 1948 (No. 11 of 1948).

4. The Madhya Pradesh Shops and Establishments Act, 1958 (No. 25 of 1958).

5. The Madhya Pradesh Industrial Relations Act, 1960 (No. 27 of 1960).

6. The Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (No. 26 of 1961).