

The Calcutta Tramways Company (Taking Over Of Management) Act, 1967

WEST BENGAL

India

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Act 16 of 1967

- Published on 19 July 1967
- Commenced on 19 July 1967
- [This is the version of this document from 19 July 1967.]
- [Note: The original publication document is not available and this content could not be verified.]

The Calcutta Tramways Company (Taking Over Of Management) Act, 1967 West Bengal Act 16 of 1967 [19th July, 1967] Assent of the President was first published in the Calcutta Gazette., Extraordinary, dated the 19th July, 1967. An Act to provide for the taking over of the management of the undertaking of the Calcutta Tramways Company Limited for a limited period in the public interest in order to secure the proper management of the same. Whereas it is expedient to provide for the taking over of the management of the undertaking of the Calcutta Tramways Company Limited for a limited period in the public interest in order to secure the proper management of the same: It is hereby enacted as follows:

Chapter I Preliminary

1. Short title. -

This Act may be called the Calcutta "Tramways Company (Taking over of Management) Act, 1967.

2. Definitions. -

In this Act, unless the context otherwise requires, -(a) "appointed day" means the date of publication of the order made under sub-section (1) of section 3; (b) "Company" means the Calcutta Tramways Company Limited; (c) "prescribed" means prescribed by rules made under this Act; (d) "undertaking of the Company" means the properties, cash balances, reserve funds and other assets of the Company including lands, buildings, works, machinery, plants, rolling stocks, lines, mains, motors, dynamos, switch-boards, apparatus, tools, implements, motor trucks and other like property

actually in use immediately before the commencement of this Act, or intended to be used, in connection with the running of tramways.

Chapter II

The taking over of the management of the undertaking of the Calcutta Tramways Company

3. State Government to take over the management of the undertaking. -

(1)The State Government may, by 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.(2)An order issued under sub-section (1) shall remain in force for a period of [nine years] [Words first substituted by W.B. Act 19 of 1972, W.B. Act 40 of 1973, W.B. Act 52 of 1974,. respectively, and finally the words within square brackets substituted for the words 'eight years' by W-B. Act 33 of 1975.] from the date of its publication in the Official Gazette:Provided that the State Government may, with the approval of the State Legislature, cancel such order at any time before the expiry, of the said period of [nine years] [Words first substituted by W.B. Act 19 of 1972, W.B. Act 40 of 1973, W.B. Act 52 of 1974,. respectively, and finally the words within square brackets substituted for the words 'eight years' by W-B. Act 33 of 1975.].

4. Effect of order issued under section 6. -

(1)With effect from the appointed day-(a)all persons in charge of the management of the undertaking of the Company, including persons holding offices as directors, agents or managers or any other managerial personnel of the Company immediately before the appointed day, shall cease to exercise any power of management and control in relation to the undertaking of the Company;(b)the undertaking of the Company shall be deemed to be in the custody of the Administrator who shall, as soon as may be after the appointed day, take all such steps as may be necessary to take the same into his custody or control;(c)the Administrator shall have all the powers of management and control in relation to the undertaking of the Company including any such powers as were exercised by the directors, agents or managers or any other managerial personnel of the Company immediately before the appointed day;(d)persons employed by the Company in connection with the undertaking of the Company and continuing in office immediately before the appointed day shall continue to remain under the terms and conditions of service in force immediately before the appointed day.(2)Subject to the other provisions of this Act and to the control of the State Government, the Administrator shall take such steps as may be necessary for the purpose of efficiently managing the business of the Company and shall exercise such other powers including the power to borrow money and have such other duties as may be prescribed.

5. No right to compensation for termination of office. -

No person who ceases to exercise any power of management or control in relation to the undertaking of the Company by reason of the provisions contained in clause (a) of sub-section (1) of section 4, shall be entitled to claim any compensation on that account: Provided that nothing contained in this section shall affect the right of any such person to recover from the Company moneys recoverable otherwise than by way of such compensation.

6. Management to revert to the Company. -

Upon the expiration of the period of [nine years] [Words first substituted by W.B. Act 19 of 1972, W.B. Act 40 of 1973, W.B. Act 52 of 1974, respectively, and finally the words within the square brackets substituted for the words 'eight years' by W.B. Act 33 of 1975.] from the date of publication of the order issued under sub-section (1) of section 3 or upon its earlier cancellation by the State Government under the proviso to sub-section (2) of the said section, the management of the undertaking of the Company shall revert to the Company.

7. 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.

8. 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 (1) 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.

Chapter III

Miscellaneous

9. Duty to deliver possession of property and documents relating thereto. -

(1) When an order has been made under sub-section (1) of section 3 in relation to the undertaking of the Company, every person having possession, custody or control of the undertaking of the Company or any part thereof, shall forthwith deliver the same to the Administrator or to such officer as may be authorised by the Administrator in this behalf. (2) Any person who, at the commencement

of this Act, has in his possession or under his control any books, documents or other papers relating to the undertaking of the Company, including 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 said books, documents and other papers (including such letters, memoranda, notes or other communications) to the Administrator and shall deliver them to the Administrator or to such officer as may be authorised by the Administrator in this behalf.(3)The State Government may take all necessary steps for securing custody of the undertaking of the Company.

10. Powers of inspection. -

(1)For the purpose of ascertaining whether any property is comprised in the undertaking of the Company or for any other purpose mentioned in this Act or the rules made thereunder, any person authorised by the State Government in this behalf shall have the right to-(a)enter and inspect any premises;(b)require any person having the possession, custody or control of any register or record relating to the undertaking of the Company to produce such register or record;(c)require the occupier of any property comprised in the undertaking of the Company to submit to the person so authorised such accounts, books or other documents or to furnish to him such information as he may reasonably think necessary; and(d)examine any person having the control of, or employed in connection with, the undertaking of the Company and require him to make any statement relating to the undertaking of the Company.

11. Penalty for false statements. -

(1)If any person,(a)when required by this Act or by any order made under this Act to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or believes to be false or does not believe to be true; or(b)makes any such statement as aforesaid in any book, account, record, return or other document which he is required by any order made under this Act to submit,he 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)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 or 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.(3)All offences under this section shall be cognizable.

12. Power of Administrator to institute, defend, etc., 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.

13. Protection of action taken under the Act. -

No suit, prosecution or other legal proceedings 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.

14. Overriding effect of Act. -

The provisions of this Act or any order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or any instrument having effect by virtue of any law other than this Act.

15. Power of State Government to give directions. -

The State Government may, from time to time, give such directions to the Administrator as the State Government may deem fit for the proper management of the undertaking of the Company and the Administrator shall comply with such directions.

16. Annual administration report to be laid before the State Legislature. -

The State Government shall, as soon as may be after the expiry of each financial year, lay before [* *] [Words 'each House of omitted by Order No. 1504-L, dated the 31.7.70, published the Calcutta Gazette, Extraordinary, dated the 31.7.70. Part I, page 1708.] the State Legislature an annual administration report from the Administrator in respect of the undertaking of the Company with an audited statement of accounts.

17. 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 all or any of the following matters, namely:-(a)the powers and duties of the Administrator including the manner of keeping accounts;(b)interest to be paid in respect of advances under sub-section (1) of section 8;(c)any other matter which has to be, or may be, prescribed.(3)Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before [* * *] [Words 'each House of omitted by Order No. 1504-L, dated the 31.7.70, published in the Calcutta Gazette, Extraordinary, dated the 31.7.70, Part I, page 1708.] the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following,[the State Legislature agrees] [Words substituted for the words 'both Houses agree' by Order No. 1504-L, dated the 31.7.70, ibid.] in making any modification in the rule or [the State Legislature agrees] [Words substituted for the words 'both Houses agree' by Order No. 1504-L, dated the 31.7.70, ibid.] 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.

18. Power to remove difficulties. -

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order as occasion requires, do anything, not inconsistent with the provisions of this Act, which appears to it to be necessary for the purpose of removing such difficulty.