



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**REHABILITATION OF PUBLIC ENTERPRISES
ACT, No. 29 OF 1996**

[Certified on 12th November, 1996]

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Rehabilitation of Public Enterprises Act, No. 29 of 1996

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L.D.—O. 54/96

**AN ACT TO PROVIDE FOR THE REHABILITATION OF PRIVATISED
PUBLIC ENTERPRISES**

WHEREAS certain Public Corporations and Government Owned Business Undertakings, were converted into Public Companies under the Conversion of Public Corporations or Government Owned Business Undertakings into Public Companies Act, No. 23 of 1987 and all the shares of such companies were allotted to the Secretary of the Treasury to be held for and on behalf of the State :

Preamble.

AND WHEREAS in furtherance of the policy of privatization, all or a majority of, the shares held by the Government in some of such companies were transferred to other persons, or the Government has ceased to have control over the management and administration of some of such companies or over property belonging to such companies :

AND WHEREAS the business undertakings of some of such companies have failed resulting in non-employment, retrenchment, non-payment of wages and statutory dues, of workers of such companies :

AND WHEREAS it is necessary and expedient, in the interest of national economy, and for the purpose of securing recognition of, and respect for, the rights of the workers of such companies and upgrading the production of such companies to meet the just requirements of the general welfare of a democratic society, for the Government to take appropriate steps to rehabilitate, such companies :

NOW THEREFORE be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Rehabilitation of Public Enterprises Act, No. 29 of 1996.

Short title.

Order vesting
the manage-
ment and
administration
of a privatised
public enter-
prise in the
Government.

2. (1) Where the President is of opinion that in any privatised public enterprise there is, or is likely to be, –

(a) a cessation of, or a substantial reduction in the work of any of the units constituting the business undertaking of such enterprise ; and

(b) non-employment or retrenchment of the workers of such enterprise or of a substantial number of such workers or, the non-payment of wages or statutory dues of, such workers or of a substantial number of such workers,

as a result only of any act or omission of the Board of Directors of such privatised public enterprise the President may, by Order published in the Gazette vest in the Government, the administration and management of the affairs of such privatised public enterprise and so long as such Order is in force the possession and control of all the immovable and movable property of such privatised public enterprise and its rights and liabilities shall vest in the Government.

(2) An Order made under subsection (1) in respect of a privatised public enterprise shall have the effect of authorising the Competent Authority appointed to manage and administer the affairs of such enterprise to take possession and control of all immovable and movable property and the assets of such enterprise and to use such property for the purposes of such enterprise.

(3) Every Order made under subsection (1) shall be laid before Parliament within four months of the date specified in such Order and if Parliament is not in session within fifty days of the commencement of the session next ensuing, by a motion that such Order be approved.

(4) Where –

- (a) Parliament refuses, within the period referred to in subsection (3) to approve an Order made under subsection (1);
- (b) an Order made under subsection (1) is laid before Parliament within the period referred to in subsection (3) but is not approved by Parliament within a period of four months calculated from the expiration of the period referred to in subsection (3);
- (c) an Order made under subsection (1) is not laid before Parliament within the period referred to in subsection (3),

such Order shall be deemed to have been revoked with effect from the date on which Parliament refuses to approve such Order or the date of expiration of the period referred to in subsection (3), or paragraph (b) of this subsection, as the case may be.

(5) Where an Order made under subsection (1) is deemed to have been revoked by reason of the operation of the provisions of subsection (4), the rights and liabilities of the privatised public enterprise in respect of which such Order was made shall be deemed not to have vested in the Government and the Competent Authority appointed to manage and administer the affairs of such privatised public enterprise shall forthwith hand over the management of such enterprise to the Chairman of the Board of Directors of such enterprise or to a person authorised by such Chairman. The Competent Authority shall cause an inventory to be prepared of the immovable property, plant, machinery and stock in trade of such enterprise at the time of such handing over.

3. (1) Where the management and control of a privatised public enterprise is vested in the Government, by an Order made under section 2 the President shall appoint a Competent Authority to manage and administer the affairs of that enterprise.

Appointment of
Competent
Authority.

(2) A Competent Authority appointed under subsection (1) to manage and administer the affairs of a privatised public enterprise shall take possession of the property of that enterprise, and shall cause an inventory to be prepared, in the presence of the Chairman of the Board of Directors of such enterprise, or any agent duly authorised by him, if such person is available, of the immovable property, plant, machinery and stock in trade of such enterprise, at the time of such taking over.

(3) The Competent Authority in the discharge of his functions and the exercise of his powers under this Act, shall be subject to such general and special directions as the President may from time to time issue, having regard to the need to safeguard, and secure recognition of, the rights of the workers of that enterprise.

(4) Where the Competent Authority takes over the management and administration of the affairs of a privatised public enterprise, the Competent Authority shall –

(a) exercise, perform and discharge with respect to such enterprise, all the powers, duties and functions conferred or imposed on, or assigned to, the Board of Directors of such enterprise by or under any written law or by the articles of association of such enterprise ;

(b) recommence any business activities of such enterprise which have ceased to function ;

(c) restructure such enterprise so as to enhance its commercial viability ;

(d) infuse the resources necessary to achieve the objectives referred to in paragraph (b) and paragraph (c);

(e) ensure the maintenance of proper accounting systems in such enterprise;

(f) secure the due payment of wages to the workers of such enterprise and due compliance by such enterprise, of all its statutory dues in relation to such workers ;

(g) meet all costs and expenses incurred in the management and administration of the affairs of such enterprise ;

(h) do such other acts as are necessary or incidental to give effect to the above.

(5) During the period for which the management and administration of the affairs of a privatised public enterprise is taken over by the Competent Authority, it shall not be lawful for any director of the Board of Directors of such enterprise, unless expressly authorised to do so by the Competent Authority, to exercise, perform and discharge any powers, duties and functions with respect to such enterprise:

4. Where an Order made under section 2 is approved by Parliament within the period referred to in subsection (3) or subsection (4) (b) of that section, the shares held by the shareholders of the privatised public enterprise in respect of which such Order was made, shall, with effect from the date of such approval, and other than in cases where such shares are already held by the Secretary to the Treasury, vest in the Secretary to the Treasury for and on behalf of the Government.

Vesting of shares of a privatised public enterprise in the Secretary to the Treasury.

5. (1) The President shall appoint, for the purposes of this Act, a compensation tribunal consisting of the Chief Valuer and two other persons who appear to the President to have wide experience and shown capacity in the valuation of property.

Appointment of compensation tribunal.

(2) The share holders of a privatised public enterprise on the day immediately preceding the date on which the shares in such enterprise were vested in the Secretary to the Treasury under section 4 shall be entitled to reasonable compensation in respect of such vesting.

(3) Where an Order made under subsection (1) of section 2 is deemed to have been revoked by reason of the operation of the provisions of subsection (3) of that section, the privatised public enterprise in respect of which such Order was

made shall be entitled to compensation for any loss of profits during the period commencing on the date of such Order and ending on the date on which such Order is deemed to have been revoked.

(4) The Minister in charge of the subject of Finance may make regulations with regard to the manner of assessment of compensation payable to share-holders entitled to compensation under subsection (2) and to privatised public enterprises entitled to compensation under subsection (3) and the mode and manner in which such compensation shall be paid.

(5) All claims to compensation under this Act shall be made to the compensation tribunal appointed under subsection (1) and such tribunal shall make its award on every such claim within six months of the date on which such claim is received by such tribunal.

(6) Any person who is aggrieved by the award made by the compensation tribunal may appeal against such award to the Court of Appeal on a question of law within fourteen days from the date on which the award was communicated to such person, with the leave of the Court of Appeal first had and obtained. The provisions of the Civil Procedure Code relating to appeals to the Court of Appeal from orders of District courts shall, *mutatis mutandis*, apply to the making and hearing of appeals under this section.

(7) All sums awarded as compensation under this Act shall be charged on the Consolidated Fund.

Offences.

6. Any person –

- (a) who refuses or fails to deliver possession to the Competent Authority of any property of a privatised public enterprise the management and administration of the affairs of which is vested in the Government by an Order under this Act ; or

(b) who wilfully or negligently destroys, damages or disables, or causes to be destroyed or damaged or disabled, or wilfully conceals or puts away, or causes to be concealed or put away any property of, any such enterprise;

(c) who prevents or obstructs, or directly or indirectly causes any other person to prevent or obstruct, the Competent Authority in taking over the management of, or taking possession or control of, any property of, any such enterprise,

shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to imprisonment of either description for a period not exceeding ten years or to a fine not exceeding ten thousand rupees or to both such fine and imprisonment.

7. For the avoidance of doubts it is hereby declared that the provisions of the Public Enterprises Reform Commission of Sri Lanka Act, No. 1 of 1996, shall apply to and in relation to any privatised public enterprise the shares of which are vested in the Secretary of the Treasury under section 4.

Applicability of the provisions of the Public Enterprises Reform Commission of Sri Lanka Act, No. 1 of 1996.

8. (1) The Minister in charge of the subject of Finance may make regulations in respect of all matters in regard to which regulations are required or authorised to be made.

Regulations.

(2) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette*, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of

disapproval but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation is deemed under subsection (3) to be rescinded shall be published in the Gazette.

Duration of this Act.

9. The provisions of this Act, shall be operative for a period of six months from the date of its commencement.

Application of the Act.

10. For the avoidance of doubts it is hereby declared that the provisions of this Act shall not apply to any privatised public enterprise—

(a) which has been incorporated or constituted under the law of ; or

(b) any shareholder of which is a national of,

any country which has entered into a treaty or agreement with Sri Lanka to which Article 157 of the Constitution applies.

Sinhala text to prevail in case of inconsistency.

11. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail,

Interpretation.

12. In this Act, unless the context otherwise requires –

“Competent Authority” means a Competent Authority appointed under section 3 ;

“person” includes any body of persons corporate or unincorporate.;

“privatised public enterprise” means a company all the shares of which were allotted to the Secretary to the Treasury in terms of subsection (3) of section 2 of the Conversion of Public Corporations or Government Owned Business undertakings into Public Companies Act, No. 23 of 1987, and –

- (a) where all or the, majority of such shares have been transferred by the Secretary to the Treasury prior to january 10, 1996 to any other person irrespective of subsequent transfers if any ; or
- (b) the Government has ceased to have effective control of the administration and management of the affairs of such company ;

“public corporation” means any corporation, board or other body which was or is established by or under any written law other than the Companies Act, No. 17 of 1982, with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise.

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