



Latest
Laws.com
Helping Good People Do Good Things

Bare Acts & Rules

Free Downloadable Formats

Hello Good People !



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXVII] THURSDAY, FEBRUARY 27, 1986/PHALGUNA 8, 1907

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the President on the 26th February, 1986 is hereby published for general information.

J. P. VASAVADA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 10 OF 1986.

(First published, after having received the assent of the President in the "*Gujarat Government Gazette*" on the 27th February, 1986).

An Act to provide for the acquisition and transfer of the closed textile undertakings and the right, title and interest of the owners in respect of the closed textile undertakings specified in the first schedule with a view to reorganising and reconstructing the said textile undertakings and thereby forming viable units to subserve the interest of the general public by the augmentation of the production and distribution, at fair prices of different varieties of cloth and yarn, and for matters connected therewith or incidental thereto.

It is hereby enacted in the Thirty-seventh Year of the Republic of India, as follows:—

CHAPTER I.

PRELIMINARY.

Short title
and commence-
ment.

1. (1) This Act may be called the Gujarat Closed Textile Undertakings (Nationalisation) Act, 1986.

(2) It shall be deemed to have come into force on the 8th November, 1985.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) "appointed day" means the 8th day of November, 1985 ;

(b) "bank" means—

(i) the State Bank of India constituted under the State Bank of India Act, 1955, 23 of 1955.

(ii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, 38 of 1959.

(iii) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, 5 of 1970.

(iv) any other bank, being a scheduled bank as defined in clause (a) of section 2 of the Reserve Bank of India Act, 1934 ; 2 of 1934.

(c) "Commissioner" means a Commissioner of Payments appointed under section 12 ;

(d) "Corporation" means the Gujarat State Textile Corporation Ltd., formed and registered under the Companies Act, 1956 ; 1 of 1956.

(e) "notification" means a notification published in the *Official Gazette* ;

(f) "owner" when used in relation to a specified textile undertaking, means any person or firm who or which is immediately before the appointed day, the immediate proprietor or lessee or occupier of the specified textile undertaking or any part thereof, and in the case of a textile company which is being wound up or the business where of is being carried on by a liquidator or receiver includes such liquidator or receiver, and also includes any agent or manager of such owner ;

(g) "prescribed" means prescribed by rules made under this Act ;

(h) "specified date" means such date as the State Government may for the purpose of any provision of this Act, by notification, specify ; and different dates may be specified for different provisions of this Act ;

(i) "specified textile undertaking" means a textile undertaking specified in the First Schedule to this Act ;

(j) "textile" includes yarn or fabrics made either wholly or partly of cotton, wool, jute, synthetic and artificial (man-made) fibres ;

(k) "textile company" means a company specified in column (3) of the First Schedule as owning the textile undertaking specified in the corresponding entry in column (2) of that Schedule ;

63 of
1948.

(l) "textile undertaking" means an undertaking engaged in the manufacture of textiles and to which the provisions of the Factories Act, 1948 apply.

65 of
1951.

(2) Words and expressions used but not defined in this Act and defined in the Industries (Development and Regulation) Act, 1951, shall have the meanings respectively assigned to them in that Act.

65 of
1951
1 of
1956.

(3) Words and expressions used but not defined either in this Act or in the Industries (Development and Regulation), Act, 1951, but defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in the Companies Act, 1956.

CHAPTER II

ACQUISITION OF THE RIGHTS OF OWNERS OF SPECIFIED TEXTILE UNDERTAKINGS.

3. (1) On the appointed day, every specified textile undertaking and the right, title and interest of the owner in relation to every such textile undertaking shall stand transferred to, and shall vest absolutely in, the State Government.

Acquisition of right of owner in respect of textile undertakings.

(2) The specified textile undertaking which stands vested in the State Government by virtue of sub-section (1) shall, immediately after it has so vested, stand transferred to, and vest in, the Corporation.

4. (1) The specified textile undertaking referred to in section 3 shall be deemed to include all assets, rights, lease holds, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, reserve funds, investments and book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the owner of the specified textile undertaking, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

General effect of vesting.

(2) All property as aforesaid which has vested in the State Government under sub-section (1) of section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting it, and any attachment, injunction or decree or order of any court restricting the use of such property in any manner shall be deemed to have been withdrawn.

(3) Where any licence or other instrument in relation to the specified textile undertaking had been granted at any time before the appointed day to an owner by [the] Central Government or the State Government or any other authority, the Corporation shall, on and from such date, be deemed to be substituted in such licence or other instrument in place of the owner referred to therein as if such licence or other instrument had been granted to the Corporation and it shall hold such licence or such other instrument for the remainder of the period for which the owner would have held such licence or such other instrument.

(4) Every mortgagee of any property which has vested under this Act in the State Government and every person holding any charge, lien or other interest in or in relation to any such property, shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(5) For the removal of doubt, it is hereby declared that the mortgagee of any property referred to in sub-section (2) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amount specified in relation to such property in section 7, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the State Government.

Owner
to be
liable for
certain
prior
liabilities.

5. (1) Every liability of the owner of the specified textile undertaking in respect of any period prior to the appointed day, shall be the liability of such owner and shall be enforceable against him and not against the State Government or the Corporation.

(2) For the removal of doubt, it is hereby declared that,—

(a) save as otherwise expressly provided in this section or in any other section of this Act, no liability, in relation to the specified textile undertaking in respect of any period prior of the appointed day, shall be enforceable against the State Government or the Corporation ;

(b) no liability of the specified textile undertaking or any owner thereof for the contravention, before the appointed day, of any provision of law for the time being in force, shall be enforceable against the State Government or the Corporation.

Contri-
bution
by State
Govern-
ment.

6. An amount equal to the value of the assets of the specified textile undertaking transferred to and vested in, the Corporation under sub-section (2) of section 3, shall be deemed to be the contribution made by the State Government to the Corporation.

CHAPTER III

PAYMENT OF AMOUNT

Payment
of amount
to owners
of specified
textile
undertakings.

7. (1) The owner of every closed textile undertaking shall be given by the State Government, in cash and in the manner specified in Chapter V, for the transfer to, and vesting in, the State Government under sub-section (1) of section 3 of the specified textile undertaking and the right,

title and interest of owner in relation to such textile undertaking, an amount equal to the amount specified against it in the corresponding entry in column (4) of the First Schedule.

(2) In addition to the amount referred to in sub-section (1) there shall be given by the State Government, in cash, to the owner of every specified textile undertaking, simple interest at the rate of four percent per annum on the amount specified against such owner in the corresponding entry in column (4) of the First Schedule for the period commencing on the appointed day and ending on the date on which the payment of such amount is made by the State Government to the Commissioner.

(3) The amount representing interest calculated at the rate specified in sub-section (2) shall be given in addition to the amount specified in the First Schedule.

(4) Where any liability of the owner specified in the Second Schedule is discharged by the State Government or the Corporation according to the order of the priorities mentioned in that Schedule, the amount to be paid to the owner under sub-section (1) shall stand reduced to that extent.

8. (1) The Corporation or any person which the Corporation may, by order in writing, specify, shall be entitled to exercise the powers of general superintendence, direction, control and management of the affairs and business of the specified textile undertaking, the right, title and interest of an owner in relation to which, have vested in the Corporation under sub-section (2) of section 3, and to do all such things as the owner of the specified textile undertaking is authorised to exercise and do.

Management etc. of specified textile undertaking.

(2) Notwithstanding anything contained in sub-section (1) or any other law for the time being in force, it shall be lawful for the Corporation to reorganise and reconstruct any one or more specified textile undertakings and thereby form such units as the Corporation deems fit.

9. On the vesting of the management of the specified textile undertaking in the Corporation, all persons in charge of the management of such specified textile undertaking immediately before such vesting shall be bound to deliver to the Corporation all assets, books of account, registers or other documents in their custody relating to the specified textile undertaking.

Duty of person in charge of management of specified textile undertakings to deliver all assets, etc.

10. The Corporation shall maintain the accounts of the specified textile undertakings in accordance with the provisions of the Companies Act, 1956.

Accounts.

CHAPTER IV

PROVISIONS RELATING TO EMPLOYEES OF SPECIFIED TEXTILE UNDERTAKINGS.

Employment
of certain
employees.

11. (1) Where services of a person who is a workman within the meaning of the Industrial Disputes Act, 1947, and who has been, immediately before the appointed day, employed in the specified textile undertaking, are in the opinion of the Corporation necessary having regard to the requirements of the units of the Corporation formed as a result of reorganisation and reconstruction of specified textile undertakings, he shall become, from the date of his appointment by the Corporation, an employee of the Corporation and shall hold office or service in the Corporation with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if the rights in relation to such specified textile undertaking had not been transferred to, and vested in, the Corporation, and continue to do so unless and until his employment in such Corporation is duly terminated or until his remuneration and terms and conditions of employment are duly altered by the Corporation:

14 of
1947.

(2) Where services of a person who is not a workman within the meaning of the Industrial Disputes Act, 1947, and who has been, immediately before the appointed day, employed in the specified textile undertaking, are in the opinion of the Corporation necessary having regard to the requirements of the units of the Corporation formed as a result of reorganisation and reconstruction of specified textile undertakings he shall become, from the date of his appointment by the Corporation, an employee of the Corporation and shall hold office or service in the Corporation on such terms and conditions of employment as may be determined by the Corporation.

14 of
1947.

(3) (a) The services of every person employed by the owner before the appointed day shall stand terminated—

(i) on the designated date if such person is not employed before that date by the Corporation under sub-section (1) or (2), and

(ii) on the date of his appointment if such person is employed before the designated date by the Corporation under sub-section (1) or (2).

(b) A person whose services stand terminated under sub-clause (i) of clause (a) shall not be entitled to claim employment in the Corporation as of right.

(4) (a) Every person whose services stand terminated under sub-clause (i) of clause (a) of sub-section (3) shall be entitled to—

(i) payment of gratuity and of compensation for retrenchment or closure in accordance with the provisions of the Payment of Gratuity Act, 1972 and the Industrial Disputes Act, 1947 if he is a workman within the meaning of the latter Act, and

39 of
1972.

14 of
1947.

(ii) payment of gratuity if he is not such workman :

Provided that no person whose services are terminated on his superannuation on or before the designated date, shall be entitled to payment of compensation for retrenchment.

(b) Notwithstanding anything contained in Chapter V and notwithstanding that the liability for payment of gratuity and compensation for retrenchment or closure under clause (a) is that of the owner, such liability shall be discharged by the State Government or the Corporation, according to the order of priorities mentioned in the Second Schedule and on discharge of such liability by the State Government or the Corporation the owner shall stand discharged to the extent of the liability so discharged.

(5) Where—

(a) the services of any person employed before the appointed day in a specified textile undertaking are terminated—

(i) under the terms of any contract or service or otherwise or

(ii) under sub-section (3), and

(b) such person is entitled to any arrears of salary or wages or any payment for any leave not availed of or other payment not being payment by way of gratuity or compensation for retrenchment,

such person may, except to the extent such liability of payment has been discharged by the State Government or the Corporation under sub-section (4) of section 7, enforce his claim against the owner of the specified textile undertaking but not against the State Government or the Corporation.

Provided that notwithstanding anything contained in the Industrial Disputes Act, 1947, the payment of Wages Act, 1936 and the Payment of Gratuity Act, 1972,—

(a) the State Government or the Corporation shall not be liable,—

(i) to any person who has become an employee of the Corporation under sub-section (1) for payment of gratuity or any arrears of wages, or

(ii) to any person whose services stand terminated under sub-clause (i) of clause (a) of sub-section (3) for payment of gratuity or any arrears of wages or compensation for retrenchment or closure

for the period commencing from the day on which the specified textile undertaking in which such person was employed was closed and ending on the day on which such person becomes an employee of the Corporation or, as the case may be, on which his services stand terminated irrespective of whether such closure was in accordance with the provisions of the Industrial Disputes Act, 1947, or not;

(b) the termination of services of a person under sub-clause (ii) of clause (a) of sub-section (3) on his becoming an employee of the Corporation under sub-section (1) shall not entitle such person to payment of any gratuity.

Explanation.—In this section the expression “designated date” means such date as the State Government may, in relation to any specified textile undertaking by notification designate, and different dates may be designated in relation to different specified textile undertakings.

14 of
1947.
IV of
1936.
39 of
1972.

14 of
1947.

CHAPTER V

COMMISSIONERS OF PAYMENTS

Appoint-
ment of
Commis-
sioner of
Payments.

12. (1) For the purpose of disbursing the amounts payable to the owner of the specified textile undertaking the State Government shall, by notification in the *Official Gazette*, appoint such person as it may think fit to be the Commissioner of Payments and different persons may be appointed for disbursing the amounts payable to different owners.

(2) The State Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons to also exercise all or any of the powers exercisable by him under this Act, and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any powers may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of the State.

Payment
by the
State
Govern-
ment to the
Commis-
sioner.

13. (1) The State Government shall, within ninety days from the specified date, pay in cash to the Commissioner for payment to the owner of the specified textile undertaking, an amount equal to the amount specified against the specified textile undertaking in First Schedule after deducting there from any amount paid under clause (b) of sub-section (4) of section 11 and shall also pay to the Commissioner such sums as may be due to the owner of the specified textile undertaking under sub-section (2) of section 7.

(2) A deposit account shall be opened by the State Government, in favour of the Commissioner, in the public account of the State, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account in the public account of the State and thereafter the said deposit account shall be operated by the Commissioner.

(3) Separate records shall be maintained by the Commissioner in respect of each specified textile undertaking in relation to which payments have been made to him under this Act.

(4) Interest accruing on the amounts standing to the credit of the deposit account referred to in sub-section (2) shall accrue to the benefit of the owners of the specified textile undertakings.

Certain
powers
of the
Corporation.

14. (1) The Corporation shall be entitled to receive to the exclusion of all other persons, any money due to the specified textile undertaking, realised after the appointed day, notwithstanding that the realisations pertain to a period prior to the appointed day.

(2) Save as otherwise provided in this Act, the liabilities in relation to the textile undertaking in respect of any period prior to the appointed day shall be the liabilities of the owner of that specified textile undertaking.

15. Every person having a claim other than the claim relating to gratuity or compensation for retrenchment or closure against the owner of the specified textile undertaking shall prefer such claim before the Commissioner within thirty days from the specified date.

Claims
to be made
to the
Commis-
sioner.

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days but not thereafter.

16. The claims arising out of the matters specified in the Second Schedule shall have priorities in accordance with the following principles, namely:—

Priority
of claims.

(a) Category I shall have precedence over all other categories and category II shall have precedence over categories III and IV; and category III shall have precedence over category IV;

(b) the claims arising out of matters specified in each category except category III shall rank equally and be paid in full, but if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly;

(c) the liabilities specified in category III shall be discharged in the manner agreed to by the State Government of one part with the banks and institutions of other parts subject to the priorities specified in this section, in accordance with the terms of the secured loans and the priority interse of such loans; and

(d) the question of payment of a liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

17. (1) On receipt of the claims under section 15, the Commissioner shall arrange the claims in the order of priority specified in the Second Schedule and examine the same in accordance with the said order.

Examina-
tion
of claims.

(2) If on examination of the claims, the Commissioner is of the opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the liabilities in respect of such lower category.

18. (1) After examining the claims with reference to the priority set out in the Second Schedule, the Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim or be excluded from the benefit of the disbursement made by the Commissioner.

Admission
or
rejection
of claims.

(2) Not less than fourteen day's notice of the date so fixed shall be given by advertisement in one issue of the daily newspaper in the English language and one issue of the daily newspaper in the regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the time specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursement made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the owner of the specified textile undertaking an opportunity of refuting the claim and after giving the claimants a reasonable opportunity of being heard, in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions including the place or places at which he may hold his sittings and shall, for the purpose of making any investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—

5 of
1908.

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the reception of evidence on affidavits; and

(d) the issuing of any commission for the examination of witnesses.

(6) An investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of
1860.

2 of
1973.

(7) A claimant who is dissatisfied with the decision of the Commissioner may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the specified textile undertaking is situated:

Provided that where a person who is a judge of the High Court is appointed to be the Commissioner, such appeal shall lie to the High Court and it shall be heard and disposed of by not less than two other Judges of the High Court.

Disburse-
ment of
money by
Commis-
sioner to
claimants.

19. After admitting a claim under this Act, the amount due in respect of such claim shall be credited by the Commissioner to the relevant fund or be paid to the person or persons to whom such sums are due and on such credit or payment the liability of the owner in respect of such claim shall stand discharged.

20. (1) If out of the monies paid to him in relation to the specified textile undertaking, there is a balance left after meeting the liabilities as specified in the Second Schedule, the Commissioner shall disburse such balance to the owner of such specified textile undertaking.

Disbursement of amounts to the owners of specified textile undertakings.

(2) Before making any payment to the owner of the specified textile undertaking under sub-section (1), the Commissioner shall satisfy himself as to the right of such person to receive the whole or any part of such amount and in the event of there being a doubt or dispute as to the right of the person to receive the whole or any part of the amount referred to in section 7, the Commissioner shall refer the matter to the Court, and make the disbursement in accordance with the decision of the Court.

(3) For the removal of doubt, it is hereby declared that the entries in column (3) of the First Schedule shall not be deemed to be conclusive as to the right, title and interest of any person in relation to the specified textile undertaking specified in corresponding entry in column (2) of the said Schedule and evidence shall be admissible to establish the right, title and interest of any person in relation to such textile undertaking.

(4) Where any machinery, equipment or other property in the specified textile undertaking has vested in the Corporation, but such machinery, equipment or other property does not belong to the owner of such textile undertaking, the amount specified in column (4) of the First Schedule against such textile undertaking shall, on a reference made to the Court by the Commissioner, be apportioned by the Court between the owner of such textile undertaking and the owner of such machinery, equipment or other property having due regard to the value of such machinery, equipment or other property on the appointed day.

Explanation.—In this section “Court” in relation to a textile undertaking means the principal civil court of original jurisdiction within the local limits of whose jurisdiction the textile undertaking is situated.

21. Any money paid to the Commissioner which remains undisbursed or unclaimed for a period of three years from the last day on which the disbursement was made, shall be transferred by the Commissioner to the general revenue account of the State Government, but a claim to any money so transferred may be preferred to the State Government by the person entitled to such payment and shall be dealt with as if such transfer has not been made, the order, if any, for payment of the claim being treated as an order for the refund of revenue.

Undisbursed or unclaimed amounts to be deposited to the general revenue account.

CHAPTER VI

MISCELLANEOUS

22. (1) Where any liability of the owner of the specified textile undertaking arising out of any item specified in category I of the Second Schedule is not discharged fully by the Commissioner out of the amount paid under this Act, the Commissioner shall intimate in writing to the State Government the extent of the liability which remains undischarged and that liability shall be assumed by the State Government.

Assumption of liabilities.

(2) The State Government may, by, order, direct the Corporation to take over any liability assumed by the Government under sub-section (1) and on receipt of such direction, it shall be the duty of the Corporation to discharge such liability.

Act to
override
all other
enactments.

23. The provisions of this Act, shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any Court, tribunal or authority.

Contracts
to cease
to have
effect
unless
ratified
by Corpora-
tion.

24. (1) Every contract entered into by the owner or occupier of the specified textile undertaking for any service, sale or supply and in force immediately before the appointed day shall, on and from the expiry of one hundred, and eighty days from the date on which this Act is first published in the *Official Gazette* cease to have effect unless such contract is before the expiry of that period, ratified in writing by the Corporation and in ratifying such contract the Corporation may, with the previous approval of the State Government make such alterations or modifications therein as it may think fit:

Provided that the Corporation shall not omit to ratify a contract, and shall not make any alteration or modification in a contract, unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interest of the specified textile undertaking.

(2) The Corporation shall not omit to ratify a contract and, shall not make any alteration or modification therein, except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

Penalties.

25. Any person who,—

(a) having in his possession, custody, or control of any property forming part of the specified textile undertaking, wrongfully withholds such property from the State Government or the Corporation or any person authorised by the Government or the Corporation, as the case may be, in this behalf, or

(b) wrongfully obtains possession of, or retains, any property forming part of the specified textile undertaking or willfully withholds or fails to furnish to the State Government, the Corporation or any person specified by the Government, or the Corporation, as the case may be, any document relating to such textile undertaking, which may be in his possession, custody or control or fails to deliver to the Corporation or any person specified by that Corporation any assets, books of account, registers or other documents in his custody relating to the specified textile undertaking, or

(c) wrongfully removes or destroys any property forming part of the specified textile undertaking or prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate

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.

26. (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:

Offences
by
companies.

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 of the company, such 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.

27. No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of the Government or the Corporation or any officer or other person authorised by the Corporation for anything which is, in good faith done or intended to be done under this Act.

Protection
of action
taken
in good
faith.

28. No proceeding for the winding up of the textile company, the right, title and interest in relation to the textile undertaking owned by which, have vested in the Corporation under this Act or, for the appointment of a receiver in respect of the business of the textile undertaking shall lie or be proceeded with in any court except with the consent of the State Government.

Textile
companies
not to be
wound up
by the court.

29. (1) The State Government may, by notification, direct that all or any of the powers exercisable by it under this Act other than the power under section 30, may also be exercised by any person or persons as may be specified in the notification.

Delega-
tion of
powers.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the State Government.

30. (1) The State Government may, by notification 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 time within which and the manner in which an intimation referred to in sub-section (4) of section 4 shall be given;

(b) any other matter which is, required to be, or may be prescribed.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

31. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act is first published in the *Official Gazette*.

32. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clause (b) of article 39 of the Constitution.

Explanation.—In this section, "State" has the same meaning as in article 12 of the Constitution.

33 (1) The Gujarat Closed Textile Undertakings (Nationalisation) Ordinance, 1985 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 this Act.

Guj.
Ord.
18 of
1985.

FIRST SCHEDULE

[See Sections 2(1)(i), 2(1)(k), 7, 13(1) and 20 (3)].

Sr. No. (1)	Name of the undertaking (2)	Name of the owner (3)	Amount (4)
			Rs.
1	The Marsden Spinning and Manufacturing Co. Ltd., Ahmedabad.	The Marsden Spinning and Manufacturing Co. Ltd., Ahmedabad.	32,21,000
2	The Monogram Mills Co. Limited, Ahmedabad.	The Monogram Mills Co. Limited, Ahmedabad.	52,97,000
3	The Bhalakia Mills Co. Ltd., Ahmedabad.	The Bhalakia Mills Co. Ltd., Ahmedabad.	1,58,82,000
4	The New Swadeshi Mills and Shri Manjushri Textiles of Ahmedabad.	The New Swadeshi Mills Ltd., Ahmedabad.	7,34,00,000
5	The Silver Cotton Mills Co. Ltd., Ahmedabad.	The Silver Cotton Mills Co. Ltd., Ahmedabad.	94,33,000
6	M/s. Manekchowk and Ahmedabad Mfg. Co. Ltd., Ahmedabad.	M/s. Manekchowk Cotton Mfg. Co. Ltd., Ahmedabad.	82,30,000
7	The Ahmedabad Cotton Mfg. Co. Ltd., (Units I and II) Ahmedabad.	The Ahmedabad Cotton Mfg. Co. Ltd., Ahmedabad.	3,08,40,000
8	Abhay Mills Ltd., Ahmedabad.	Abhay Mills Ltd., Ahmedabad.	1,25,90,000
9	The Tarun Commercial Mills Ltd., Ahmedabad.	The Tarun Commercial Mills Ltd., Ahmedabad.	1,45,94,000
10	The Sarangpur Cotton Mfg. Co. Ltd., Ahmedabad.	Shri Ambica Mills Ltd., Ahmedabad.	4,37,73.0 00

SECOND SCHEDULE.

(See sections 7(4), 16 and 18)

Order of priorities for the discharge of liabilities in respect of the Textile Undertakings**Category I.—**

All dues including gratuity of employees in the specified textile undertaking.

Category II.—

Arrears relating to contributions towards Provident Fund and contributions under the Employees' State Insurance Act, 1948, payable by the owner; arrears of excise duty, sales-tax, dues relating to electricity and dues of a local authority.

Category III.—

Secured creditors including banks and institutions.

Category IV.—

- (i) Sundry creditors.
 - (ii) Other liabilities.
-



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXVII] WEDNESDAY, SEPTEMBER 3, 1986/BHADRA 12, 1908

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to
by the Governor on the 1st September 1986 is hereby published for general
information.

J. P. VASAVADA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 20 OF 1986.

(First published after having received the assent of the Governor in the
"Gujarat Government Gazette" on the 3rd September, 1986).

AN ACT

to amend the Gujarat Closed Textile Undertakings (Nationalisation) Act, 1986.

It is hereby enacted in the Thirty-seventh Year of the Republic of India,
as follows:—

1. This Act may be called the Gujarat Closed Textile Undertakings Short title.
(Nationalisation) (Amendment) Act, 1986.

Amend-
ment of
section 2 of
Guj. 10 of
1986.

2. In the Gujarat Closed Textile Undertakings (Nationalisation) Act, 1986 (hereinafter referred to as "the principal Act"), in section 2, in sub-section (1), in clause (b), after sub-clause (iii), the following sub-clause shall be inserted, namely:—

"(iii-a) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;"

Amend-
ment of
First
Schedule
to Guj. 10
of 1986.

3. In the principal Act, in the First Schedule, in entry 10, in column 3, for the words and letters "Shri Ambica Mills Ltd., Ahmedabad", the words and letters "The Sarangpur Cotton Mfg. Co. Ltd., Ahmedabad" shall be substituted.

Amend-
ment of
Second
schedule
to Guj. 10
of 1986.

4. In the principal Act, in the Second Schedule,—

(1) under the heading 'Category I', for the portion beginning with the words "all dues" and ending with the word "undertaking", the following shall be substituted, namely:—

"(i) All dues including gratuity of employees in the specified textile undertaking ;

"(ii) Arrears relating to contributions towards Provident Fund and contributions under the Employees' State Insurance Act, 1948 payable by the owner;"

(2) under the heading 'Category II', for the portion beginning with the words "Arrears relating to" and ending with the words "local authority", the following shall be substituted, namely:—

"Arrears of Excise Duty, Sales Tax, dues relating to electricity and dues of a local authority."