

**THE
SUGAR UNDERTAKINGS
(TAKING OVER OF MANAGEMENT) ACT, 1978
[ACT No. 49 OF 1978]**

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**THE
SUGAR UNDERTAKINGS
(TAKING OVER OF MANAGEMENT) ACT 1978**

[ACT No. 49 OF 1978]

Published in the Gazette of India Extraordinary dated 30-12-1978

[As amended by Act No. 18 of 1979]

An Act to provide for the temporary taking over in the public interest of the management of certain sugar undertakings in certain circumstances.

Whereas for maintaining the continuity of production of sugar for avoiding undue hardship to cane producing farmers and to best sub-serve the interests of all sections of the people it is expedient in the public interest to provide for the taking over for a limited period the management of every sugar undertaking which fails or ceases to manufacture sugar or which fails to pay promptly amounts due for the cane acquired for the purposes of the undertaking.

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows.—

**CHAPTER I
Preliminary**

1. Short title extent and commencement.—(1) This Act may be called the Sugar Undertakings (Taking Over of Management) Act 1978.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 9th day of November 1978.

2. Definitions.—In this Act unless the context otherwise requires.—

- (a) **“Appointed day”** in relation to any sugar year means such day in the year as the Central Government may by notification specify having regard to the agro-climatic conditions prevailing or likely to prevail the quantity of

cane available or likely to be available for crushing and other relevant factors:

Provided that for the sugar year 1978-79 the appointed day shall be the 15th day of November 1978.

- (b) **“Cane”** means sugarcane;
- (c) **“Date of vesting”** in relation to a sugar undertaking means the date on which the management of the undertaking vests in the Central Government under Section 3;
- (d) **“Notification”** means a notification published in the Official Gazette;
- (e) **“Prescribed”** means prescribed by rules made under this Act;
- (f) **“Sugar undertaking”** means an undertaking engaged in the manufacture or production of sugar by means of vacuum pans and with the aid of mechanical power and **“notified sugar undertaking”** means a sugar undertaking in respect of which a notification has been issued under Section 3;
- (g) **“Sugar year”** means the period of twelve months commencing on the 1st day of October and ending with the 30th day of September next following;
- (h) 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 and for this purpose a sugar undertaking shall be deemed to be an industrial within the meaning of that Act;
- (i) Words and expressions used but not defined 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 Taking over of Management

3. Vesting of management of a sugar undertaking in Central Government.—(1)
Where the Central Government is satisfied.—

- (a) that any sugar undertaking has in any sugar year failed to commence the manufacture of sugar on or before the appointed day in respect of that year or having started the manufacture of sugar on or before that day ceased to manufacture sugar before the expiry of the average period of manufacture of sugar in relation to that undertaking; or
- (b) that on any date in any sugar year any sugar undertaking has in relation to the cane ¹[purchased at any time (whether in that sugar year or in any earlier sugar year or sugar years and whether before or after the commencement of this Act) before that date] for the purposes of the undertaking arrears of cane dues to the extent of more than ten per cent of

¹ The words "prurchased before that date" shall be substituted and shall be deemed always to have been substituted by Act No. 18 of 1979 (w.r.e.f. 31-1-1979).

the total price of the cane purchased for the purposes of the undertaking during the immediately preceding sugar year; and

- (c) that in either case the effective functioning of the undertaking is necessary for the purposes of this Act

the Central Government may issue a notice in such form and in such manner as may be prescribed to the owner or the manager of such sugar undertaking calling upon such owner or manager to report in writing within such time not being less than five days as may be specified in the notice the circumstances under which such undertaking has so failed to commence or ceased to manufacture sugar or as the case may be clear the said arrears of cane dues and to show cause as to why the management of such undertaking should not be taken over by the Central Government under this Act.

(2) As soon as may be after the receipt of the report under sub-section (1) from the sugar undertaking or where the sugar undertaking has failed to make such report within the time specified in the notice to that undertaking under sub-section (1) after the expiry of such time the Central Government may make such further inquiry (if any) as it may deem fit and.—

- (a) if the Central Government is satisfied that having regard to all the circumstances of the case and the purposes of this Act that it would be expedient to give further time to the undertaking to enable it to commence or resume production of sugar or as the case may be clear the arrears of cane dues it may by order in writing specify the date on or before which and the manner in which such undertaking shall commence or resume production of sugar or as the case may be clear the said arrears of cane dues; or
- (b) if the Central Government is not satisfied as provided in clause (a) declare by notification that the management of such undertaking shall vest in the Central Government on and from such date as may be specified in such notification.

(3) If a sugar undertaking has failed to comply with an order made under clause (a) of sub-section (2) or having commenced or resumed the production of sugar on or before the date specified in such order ceased to manufacture sugar before the expiry of the average period of manufacture of sugar in relation to that undertaking and the Central Government is satisfied that it is necessary so to do for the purposes of this Act it may by notification declare that the management of such sugar undertaking shall vest in the Central Government on and from such date as may be specified in such notification.

(4) Any failure on the part of the owner or manager of the sugar undertaking to utilise the undertaking for the manufacture of sugar during any period shall not be taken into account for the purpose of issuing a notification in respect of that undertaking under clause (b) of sub-section (2) or sub-section (3) where such failure is attributable to any circumstances (other than financial difficulties) beyond his control.

(5) Every notification issued under sub-section (2) or sub-section (3) for vesting the management of a sugar undertaking in the Central Government shall be in force for such period not exceeding three years from the date of vesting as may be specified in the notification but if the period so specified is less than three years from the date of vesting and the Central Government is of opinion that it is expedient in the public interest that

the management of the sugar undertaking should continue to vest in the Central Government after the expiry of the period so specified it may from time to time issue by notification directions for such continuance for such further period as may be specified in the directions:

Provided that the total period for which the management of the undertaking may remain vested in the Central Government shall in no case exceed three years from the date of vesting.

(6) For the purposes of this section. —

- (a) “Cane dues” in relation to any cane purchased by a sugar undertaking means the price payable in accordance with the agreement (whether express or implied) or arrangement relating to such purchase and where there is no such agreement or arrangement the price as determined in accordance with the law applicable to such purchase;
- (b) any cane dues being the price payable for any cane acquired for the purposes of a sugar undertaking shall not be deemed to be in arrears at any time before the expiry of fourteen days from the date of delivery of such cane to the undertaking;
- (c) the average period of manufacture of sugar in relation to any sugar undertaking with respect to any sugar year (hereafter in this clause referred to as the current sugar year) shall be calculated by dividing the total number of calendar days during which the undertaking manufactured sugar during the period of three sugar years immediately preceding the current sugar year by the number of sugar years in which the undertaking manufactured sugar during the said period of three years.

4. Assets etc. of notified sugar undertaking.—(1) The notified sugar undertaking shall be deemed to include all assets rights powers authorities and privileges in relation to the said undertaking and all property movable and immovable including lands buildings workshops stores instruments machinery automobiles and other vehicles and goods under production or in transit cash balances reserve funds investments and all other rights and interests in or arising out of such property as were immediately before the date of vesting in the ownership possession power or control of that undertaking whether within or outside India and all books of account registers and all other documents of whatever nature relating thereto.

(2) Any contract whether express or implied or other arrangement (whether under any statute or otherwise) insofar as it relates to the management of the business and affairs of the notified sugar undertaking and in force immediately before the date of vesting or any order made by any Court insofar as it relates to the management of the business and affairs of that undertaking and in force immediately before the said date shall be deemed to have terminated on that date.

(3) All persons in whom the management of the business and affairs of the notified sugar undertaking vests immediately before the date of vesting shall as from that date cease to be so vested.

(4) Notwithstanding any judgment decree or order of any Court Tribunal or other Authority or anything contained in any law (other than this Act) for the time being in force every Receiver Official Liquidator or other person in whose possession or custody or under whose control the notified sugar undertaking or any part thereof may be immediately before the date of vesting shall on that date deliver the possession of the said undertaking or such part thereof as the case may be to the Custodian appointed under Section 5 or where no Custodian has been appointed to such other person as the Central Government may direct.

(5) The Central Government may take or cause to be taken all necessary steps for securing the possession of the notified sugar undertaking.

5. Appointment of Custodian.—(1) The Central Government may as soon as it is convenient administratively so to do appoint an individual or a body of individuals or a Government company as the Custodian of a notified sugar undertaking or a group of notified sugar undertakings for the purpose of taking over the management of such undertaking or undertakings and the Custodian so appointed shall carry on the management of such undertaking or undertakings for and on behalf of the Central Government.

(2) The Central Government may also appoint an individual or a Government company as the Custodian-General for exercising supervision and control over all the notified sugar undertakings and on such appointment every Custodian appointed under sub-section (1) shall act under the guidance control and supervision of the Custodian-General.

(3) On the appointment of a Custodian under sub-section (1) the charge of management of the notified sugar undertaking or group of notified sugar undertakings as the case may be shall vest in such Custodian and all persons incharge of the management of such undertaking or undertakings immediately before such appointment shall cease to be in charge of such management and shall be bound to deliver to the Custodian all assets books of account registers or other documents in their custody relating to such undertaking or group of undertakings.

(4) 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 or Custodian-General as to his or its powers and duties as the Central Government deems desirable and the Custodian-General or if there is no Custodian-General the Custodian may apply to the Central Government at any time for instructions as to the manner in which the Custodian or the Custodian-General shall conduct the management of the notified sugar undertaking or in relation to any matter arising in the course of such management.

(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 notified sugar undertaking shall notwithstanding anything contained in any other law for the time being in force be liable to account for the books papers and other documents to the Custodian and shall deliver them up to the Custodian or to such other person as may be authorised by the Central Government or the Custodian in this behalf.

(6) Every person-in-charge of the management of the notified sugar undertaking immediately before the date of vesting shall within ten days from that date 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 investments and belongings) forming part of the undertaking immediately before the date of vesting and of all liabilities and obligations of the undertaking subsisting immediately before that date and also of all agreements entered into by the owner or manager of the undertaking in relation to the said undertaking and in force immediately before that date.

(7) The Custodian-General shall hold office during the pleasure of the Central Government and shall receive such remuneration as may be fixed by the Central Government.

(8) Every Custodian or where a body of individuals has been appointed as the Custodian each such individual shall hold office during the pleasure of the Central Government and shall receive from the funds of the sugar undertaking or group of sugar undertakings concerned such remuneration as may be fixed by the Central Government.

Explanation.—The remuneration payable to the Custodian of two or more notified undertakings shall be allocated among the funds of the undertakings in such proportion as the Central Government may having regard to the quantum of work in respect of such undertakings and other relevant circumstances by order determine.

6. Payment of amount.—(1) The owner of every notified sugar undertaking shall be given by the Central Government an amount in cash for vesting in it under Section 3 the management of such undertaking.

(2) For every month during which the management of the notified sugar undertaking remains vested in the Central Government under this Act the amount referred to in sub-section (1) shall be.—

- (a) where the daily cane crushing capacity of the undertaking is five hundreds tonnes or less an amount of five hundred rupees; and
- (b) where the daily cane crushing capacity of the undertaking is more than five hundred tonnes an amount computed at the rate of one rupee for each tonne of such capacity or an amount of one thousand two hundred and fifty rupees whichever is less.

CHAPTER III

Relief to Sugar Undertakings and Cane Producing Farmers

7. Power of Central Government to make certain declarations.—(1) The Central Government may if it is satisfied in relation to a notified sugar undertaking that it is necessary so to do in the interests of the general public with a view to preventing the fall in the volume of production of the sugar industry it may by notification declare that.—

- (a) all or any of the enactments specified in the Schedule 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) to such sugar undertaking as may be specified in such notification; or

- (b) the operation of all or any of the contracts assurance of property agreements settlements awards standing orders or other instruments in force (to which such sugar undertaking or the person owning such undertaking is a party or which may be applicable to such sugar undertaking or person) immediately before the date of issue of the notification 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 adaptations and in such manner as may be specified in the notification.

(2) The notification made under sub-section (1) in relation to a notified sugar undertaking shall remain in force in the first instance for such period not exceeding one year as may be specified in the notification but the duration of such notification may be extended from time to time by a further notification by a period not exceeding one year at a time.

(3) Any notification made under sub-section (1) shall have effect notwithstanding anything to the contrary contained in any other law agreement or instrument or any decree or order of a Court Tribunal Officer or other authority or of any submission settlement or standing order.

(4) Any remedy for the enforcement of any right privilege obligation or liability referred to in clause (b) of sub-section (1) and suspended or modified by a notification made under that sub-section shall in accordance with the terms of the notification remain suspended or modified and all proceedings relating thereto pending before any Court Tribunal Officer or other Authority shall accordingly remain stayed or be continued subject to such adaptations so however that on the notification ceasing to have effect. —

- (a) any right privilege obligation or liability so remaining suspended or modified shall become revived and enforceable as if the notification had never been made;
- (b) any proceeding so remaining 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 proceedings become stayed.

(5) In computing the period of limitation for the enforcement of any right privilege obligation or liability referred to in clause (b) of sub-section (1) the period during which it or the remedy for the enforcement thereof remained suspended shall be excluded.

8. Assistance to notified sugar undertakings to clear arrears of cane dues.—(1) The Central Government may issue such directions as it deems fit to the Custodian-General and the Custodian to facilitate the speedy clearance of arrears of cane dues so as to avoid undue hardship to cane producing farmers.

(2) Without prejudice to the provisions of sub-section (1) the Central Government may render such assistance in such manner as it may deem fit to any notified sugar undertaking to enable the undertaking to clear the whole or any part of its arrears of cane dues so as to avoid undue hardship to cane producing farmers.

Explanation.—For the purposes of this section the expression “arrears of cane dues” shall be construed in accordance with the provisions of clauses (a) and (b) of sub-section (6) of Section 3.

CHAPTER IV Miscellaneous

9. Notified sugar undertaking if a company not to be wound up.—(1) No proceeding for the winding up of a notified sugar undertaking being a company shall lie in any Court or be continued whether by or under the supervision of any Court or voluntarily except with the consent of the Central Government.

(2) In computing the period of limitation prescribed by any law for the time being in force for any application which may be made in the course of winding up of any such notified sugar undertaking in respect of any matter arising out of any transaction in relation to such undertaking the time during which the making of such application was barred by this Act shall be excluded.

10. Contracts etc. in bad faith may be cancelled or varied.—(1) If the Central Government is satisfied after such inquiry as it may think fit that any contract or agreement entered into by the owner or manager of a notified sugar undertaking in relation to the said undertaking at any time within twelve months immediately preceding the date of vesting has been entered into in bad faith or is detrimental to the interests of the undertaking it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) the 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 a reasonable opportunity of being heard.

(2) Any person aggrieved by an order made under sub-section (1) may make an application to the principal Court of civil jurisdiction within the local limits of whose jurisdiction the registered office of the sugar undertaking is situated for the variation or reversal of such order and thereupon such Court may confirm vary or reverse such order.

11. Power to terminate the contract of employment.—If the Custodian or Custodian-General is of opinion that any contract of employment entered into by any owner or member of a notified sugar undertaking or its agent in relation to the said undertaking at any time before the date of vesting 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.

12. Management of notified sugar undertakings pending taking over physical possession by the Custodian.—(1) Pending the taking over by a Custodian appointed under Section 5 of the physical possession of any notified sugar undertaking the person-in-charge of the management of such undertaking immediately before the date of vesting shall on and from that date be in charge of the management of such undertaking for and on behalf of the Central Government; and the management of such undertaking shall be carried on by such person subject to the provisions contained in sub-section (2) and such directions if any as the Central Government may give to him and no other person including the said undertaking shall so long as such management continues exercise any powers of management in relation to the said undertaking.

(2) No person-in-charge under sub-section (1) of a notified sugar undertaking shall without the previous approval of the Custodian-General appointed under Section 5.—

- (i) incur any expenditure from the assets appertaining to the undertaking otherwise than for the purpose of making routine payments of salaries or commissions to employees agents or for the purpose of meeting the routine day to day expenditure;
- (ii) transfer or otherwise dispose of any such assets or create any charge hypothecation lien or other incumbrance thereon;
- (iii) invest in any manner any moneys forming part of such assets;
- (iv) acquire any immovable property out of the moneys forming part of such assets;
- (v) enter into any contract of service or agency whether expressly or by implication for purposes connected wholly or partly with the undertaking or vary the terms and conditions of any contract relating to any such transaction subsisting on the date of vesting.

(3) The approval of the Custodian-General may be given either generally in relation to certain classes of transactions relating to the notified sugar undertaking or specially in relation to any of its transactions.

13. Protection of action taken in good faith.—(1) No suit prosecution or other legal proceeding shall lie against the Government the Custodian-General or any other officer of Government or any Custodian in respect of 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 Government the Custodian-General or any other officer of Government or any Custodian 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. Delegation of powers.—(1) The Central Government may by notification direct that all or any of the powers exercisable by it under this Act other than those under this section or Section 8 or Section 20 may also be exercised by any person or persons as may be specified in the notification.

(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 Central Government.

15. Debts incurred for the purposes of notified sugar undertakings to have priority.—Every debt arising out of any loan advanced to a notified sugar undertaking by the Central Government or a State Government for carrying on the management of such undertaking.—

- (a) shall have priority over all other debts whether secured or unsecured incurred before the management of such undertaking was taken over under this Act;
- (b) shall be a preferential debt within the meaning of Section 530 of the Companies Act 1956

and such debts shall rank equally among themselves and be paid in full out of the assets of the undertaking unless such assets are insufficient to meet them in which case they shall abate in equal proportions.

16. Penalties.—If any person.—

- (a) fails to deliver to the Custodian any assets books of account registers or any other documents in his custody relating to any notified sugar undertaking; or
- (b) retains any property of such undertaking or removes or destroys it; or
- (c) fails to comply with the provisions of Section 5; or
- (d) fails to comply with any direction made under this Act

he shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.

17. 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 of the company such director manager secretary or other office 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) “**direct**” in relation to a firm means a partner in the firm.

18. Act not to apply to certain sugar undertakings.—(1) The provisions of this Act shall not apply to any sugar undertaking which is owned by or is under the management of the Central Government or a State Government or a corporation established by or under an enactment (including an Ordinance) or a Government company as defined in Section 617 of the Companies Act 1956)1 of 1956).

(2) For the purposes of sub-section (1) the management of a sugar undertaking by a receiver or an authorised controller appointed by the Central Government or a State Government under any law for the time being in force shall also be deemed to be management of the undertaking by the Central Government or a State Government as the case may be.

19. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any law (other than this Act) or any judgment decree or order of any Court Tribunal or other Authority or any instrument having effect by virtue of any law other than this Act.

20. Power to make rules.—The Central Government may by notification make rules to carry out the provisions of this Act.

21. Laying of rules and certain notifications.—Every rule made by the Central Government under this Act and every notification made under Section 7 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 notification or both Houses agree that the rule or notification should not be made the rule or notification shall thereafter have effect only in such modification form or be of no effect as the case may be; so however that any such modified or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

22. Repeal and saving.—(1) The Sugar Undertakings (Taking Over of Management) Ordinance 1978 is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taking under the corresponding provisions of this Act.

THE SCHEDULE

[See Section 7]

1. The Industrial Employment (Standing Orders) Act 1946
 2. The Industrial Disputes Act 1947
 3. The Minimum Wages Act 1948
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**THE
SUGAR UNDERTAKINGS (TAKING OVER OF MANAGEMENT)
(AMENDMENT) ACT 1979
[No. 18 OF 1979]**

1. Short title and commencement.—(1) This Act may be called the **Sugar Undertakings (Taking Over of Management) (Amendment) Act 1979**.

(2) It shall be deemed to have come into force on the 31st day of January 1979.

2. Amendment of Section 3 of Act 49 of 1978.—In Section 3 of the Sugar Undertakings (Taking Over of Management) Act 1978 (hereinafter referred to as the principal Act) in sub-section (1) in clause (b) for the words “purchased before that date” the following shall be substituted and shall be deemed always to have been substituted namely.—

“purchased at any time (whether in that sugar year or in any earlier sugar year or sugar years and whether before or after the commencement of this Act) before that date.”

3. Validation.—Notwithstanding any judgment decree or order (whether interim or otherwise) of any Court anything or any action (including the issue by the Central Government of any notification declaring that the management of any sugar undertaking shall vest in the Central Government on and from the date specified in such notification) done or taken or purported to have been done or taken under Section 3 of the principal Act or under the corresponding provision of the Ordinance which was repealed by the principal Act shall for all purposes be deemed to be and to have always been as validly done or taken as if such thing or action (including the issue of such notification) had been done or taken under Section 3 of the principal Act as amended by Section 2 of this Act and accordingly.—

- (a) no suit or other proceeding shall be maintained or continued in any Court against the Central Government or any person or authority whatsoever for the restoration to the owner of the management of any sugar undertaking with respect to which such notification had been issued by the Central Government;
- (b) no Court shall enforce any decree or order (including an interim order) for the restoration to the owner of the management of any sugar undertaking with respect to which such notification had been issued by the Central Government; and
- (c) every such notification shall be and shall be deemed always to have been valid effective and enforceable or on behalf of the Central Government in accordance with the tenor thereof and the provisions of the principal Act as amended by this Act.

Explanation.—Words and expressions used in this section which are defined in or for the meanings of which provision has been made in Section 2 of the principal Act shall have the same meanings as under that section.

4. Repeal.—The Sugar Undertakings (Taking Over of Management) (Amendment) Ordinance 1979 (2 of 1979) is hereby repealed.