

Panaji, 30th April, 1987 (Vaisakha 10, 1909)

SERIES I No. 5



# OFFICIAL GAZETTE

## GOVERNMENT OF GOA, DAMAN AND DIU

### GOVERNMENT OF GOA, DAMAN AND DIU

Revenue Department

Office of the Collector of Daman

#### ORDER

COL/LRC/62

In partial modification of order No. COL/LRC/178/72/1387 dated 8-6-1972 and in exercise of power conferred under Sub-Section 2 of Section 3 of the Goa, Daman and Diu Land Revenue Code, 1968, it is ordered that the Villages mentioned in column (2) of the Schedule appended thereto as constituted by Government under Notification No. RD/LND/213/69/71-II, dated 15-2-1971 and subsequent corrigendum thereto No. RD/LND/213/69 dated 28-6-1971 published in the Official Gazette No. 47 Series I, dated 18-2-1971 and No. 15 of Series I, dated 6-7-1971 respectively shall constitute sazas specified in column (3) and the Sazas shall constitute Circles as specified in column (4) of the said Schedule.

This order shall come into force with immediate effect.

#### SCHEDULE

Taluka	Name of Villages	Name of Sazas	Name of Circle
1	2	3	4
Daman	1. Nani Daman 2. Kathiria 3. Moti Daman 4. Daman Camp 5. Jumprim	Daman	Moti Daman
	1. Damanwada 2. Dholar 3. Bhamti	Damanwada	
	1. Jampore 2. Pariari 3. Palhit 4. Nailapardi 5. Devapardi	Pariari	
	1. Magarwada 2. Thanapardi 3. Zari	Magarwada	
	1. Bhimpore 2. Jani Vankad	Bhimpore	Nani Daman
	1. Kadaiya 2. Devka 3. Marwad	Marwad	

1	2	3	4
Daman	1. Dabhel 2. Ringanwada	Dabhel	Nani Daman
	1. Kachigam	Kachigam	
	1. Varkund 2. Dunetha 3. Khariwadi	Dunetha	

R. Lakshmikantham, Collector, Daman.

Daman, 9th April, 1987.

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Law Department

Legal Affairs Branch

Notification

7-27-86/LA

The Goa, Daman and Diu Labour Welfare Fund Act, 1986 (Act No. 4 of 1987), which has been passed by the Legislative Assembly on 5-8-1986 and assented to by the President of India on 4-4-1987, is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 14th April, 1987.

#### The Goa, Daman and Diu Labour Welfare Fund Act, 1986

(Act 4 of 1987) [4-4-1987]

AN

ACT

*to provide for the constitution of a Fund for the financing of activities to promote welfare of Labour and for conducting such activities and for matters connected therewith in the Union territory of Goa, Daman and Diu.*

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-seventh Year of the Republic of India as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Goa, Daman and Diu Labour Welfare Fund Act, 1986.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint in this behalf.

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

(a) 'Board' means the Goa, Daman and Diu Labour Welfare Board established under section 4;

(b) 'contractor' means contractor as defined in clause (c) of sub-section (1) of section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 (Central Act 37 of 1970);

(c) 'employee' means any person who is employed for hire or reward to do any work, skilled or unskilled, manual, supervisory, clerical or technical in an establishment for a continuous period of 30 days during the period of 12 months whether the terms of employment be expressed or implied, but does not include any person—

(i) who is employed mainly in a managerial capacity; or

(ii) who, being employed in a supervisory capacity, draws wages exceeding one thousand and six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reasons of the powers vested in him, functions mainly of a managerial nature;

(d) 'employer', means a person who has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to any other person whether called a manager, managing director, managing agent, superintendent or by any other name, such other persons;

(e) 'establishment' means any—

(i) factory as defined in clause (m) of section 2 of the Factories Act, 1948 (Central Act 53 of 1948), or any place which is deemed to be a factory under section 85 of that Act, or

(ii) motor transport undertaking as defined in clause (g) of section 2 of the Motor Transport Workers Act, 1961 (Central Act 27 of 1961), or

(iii) establishment, including a society registered under the Societies Registration Act, 1860 (Central Act 21 of 1860), and a charitable or other trust whether registered under any law applicable to such charitable or other trust or not, which carries on any business or trade or any work in connection therewith or ancillary thereto but does not include an establishment not being a factory which is a unit or department of the Central or any State Government, or

(iv) establishment as defined under sub-section (9) of section 2 of the Goa, Daman and Diu Shops and Establishments Act, 1973 (Act 13 of 1974), or

(v) establishment of a contractor, or

(vi) scheduled employment as defined in clause (g) of section 2 of the Minimum Wages Act, 1948 (Central Act 11 of 1948), or

(vii) plantation, or

(viii) motor transport service including trucks, engaged in transport of passengers or goods, or

(ix) port, dock, wharf or jetty, or

(x) inland water transport service including barges, launches, dredgers, engaged in movement, transport or handling of goods or cargo or transport of passengers, or

(xi) establishment which the Government may, by notification, declare to be an establishment for the purpose of this Act;

(f) 'Fund' means the Labour Welfare Fund constituted under section 3;

(g) 'Government' means the Government of Goa, Daman and Diu;

(h) 'Inspector' means an Inspector appointed under section 21;

(i) 'Legislature' means the Legislative Assembly of Goa, Daman and Diu;

(j) 'notification' means a notification published in the Official Gazette of the Government of Goa, Daman and Diu and the word "notified" shall be construed accordingly;

(k) 'Secretary' means the Secretary of the Board appointed under section 20;

(l) 'unpaid accumulation' means all payment whether called as wages or bonus, gratuity or compensation or by any other name, due to an employee but not paid to him within a period of three years from the date on which payments become due whether before or after the commencement of this Act but does not include the amount or contribution, if any, paid by an employer to a provident fund established under the Employees' Provident Fund Act, 1952 (Central Act 19 of 1952), and compensation payable under Workmen's Compensation Act, 1923 (Central Act 8 of 1923);

(m) 'wages' means all remuneration capable of being expressed in terms of money which would, if the terms of employment, express or implied, were fulfilled, be payable to an employee in respect of his employment or of work done in such employment, but does not include—

(i) The value of any house accommodation or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by general or special order of the Government, or

(ii) any contribution paid by the employer to any pension or provident fund or under any scheme of social insurance, or

(iii) any travelling allowance or the value of any travelling concession;

**3. Labour Welfare Fund.** — (1) The Government shall constitute a fund called the Labour Welfare Fund, and notwithstanding anything contained in any other law for the time being in force or in any contract or instrument, all unpaid accumulations shall be paid at such intervals as may be prescribed, to the Board, and be credited to the Fund and the Board shall keep a separate account therefor until claims thereto have been decided in the manner provided for in section 12.

(2) There shall also be credited to the Fund—

- (a) unpaid accumulations paid to the Board under sub-section(2) of section 12;
- (b) deductions made under the proviso to sub-section (2) of section 9 of the Payment of Wages Act, 1936 (Central Act 4 of 1936);
- (c) contribution made by employers and employees;
- (d) any interest by way of penalty paid under section 13;
- (e) any voluntary donations;
- (f) any fund transferred under sub-section (5) of section 16;
- (g) any sum borrowed under section 17;
- (h) grants or advances made by the Government; and
- (i) all fines imposed and realised from employers by courts for violations of Labour Laws less the deduction made by Court towards administrative expenses.

(3) The sums specified in sub-section (2) shall be paid to, or collected by such agencies, at such intervals and in such manner and the accounts of the funds shall be maintained and audited in such manner, as may be prescribed.

**4. Establishment of Board.** — (1) The Government shall, by notification in the Official Gazette establish a Board for the whole of the Union territory of Goa, Daman and Diu by the name "the Goa, Daman and Diu Labour Welfare Board" for the purpose of administering the Fund and to carry out such other functions as may be assigned to the Board by or under the Act.

(2) The Board shall be a body corporate having perpetual succession and a common seal and shall, by the said name sue and be sued.

**5. Constitution of Board.** — (1) The Board shall consist of a Chairman who shall be the Minister-in-charge of Labour and a Vice-Chairman who shall be the Commissioner, Labour and of the following members appointed by the Government, namely:—

(a) such number of representatives of employers and employees as may be prescribed:

Provided that both employers and employees shall have equal representation on the Board;

(b) such number of members of the Legislature as may be prescribed; and

(c) such number of officials and non-officials as may be prescribed.

(2) The appointment of the Chairman, Vice-Chairman and the members shall be notified.

**6. Term of office of members.** — The terms of office of the members of the Board other than the official members shall be three years from the date of their appointment and they shall be eligible for reappointment. They shall continue as such members until the appointment of their successor:

Provided that the Chairman of the Board shall cease to be the Chairman as soon as he ceases to be a Minister-in-Charge of Labour. The Vice-Chairman shall hold the post of Chairman till a new Minister is appointed to that post:

Provided further that the Member of the Legislature shall cease to be a member of the Board from the date on which he ceases to be a Member of the Legislature.

**7. Disqualifications and removal.** — (1) No person shall be appointed as a member of the Board if he—

- (a) is an officer or servant under the Board, or
- (b) is an undischarged insolvent; or
- (c) is found to be lunatic or becomes of unsound mind; or
- (d) is or has been convicted by a criminal court for any offence involving moral turpitude; or
- (e) is in arrears of any sum due to the Board.

(2) The Government may remove from office a member who—

- (a) is or has become subject to any of the disqualifications mentioned in sub-section (1); or
- (b) is absent without leave of the Board for more than three consecutive meetings of the Board.

**8. Resignation of office by member and filling up of casual vacancies.** — (1) Any member may resign his office by giving notice thereof in writing, to the Government, and on such resignation being accepted, shall be deemed to have vacated his office.

(2) A casual vacancy in the office of member may be filled up, as conveniently as may be, and a member appointed to fill such vacancy shall hold office for the unexpired portion of the term of the office of his predecessor.

**9. Power to appoint committees.** — For the purpose of advising the Board in the discharge of its functions and in particular for carrying into effect any of the matters specified in sub-section (2) of section 16, the Board may constitute one or more committees, consisting of at least one member of the Board and equal number of representatives of employees and employers.

**10. Acts of Board or Committee not to be invalidated by informality, vacancy, etc.** — No act done or proceeding taken under this Act by the Board

or any Committee shall be invalidated merely on the ground —

(a) of any vacancy or defect in the constitution of the Board or the Committee; or

(b) of any defect or irregularity in the appointment of a person acting as a member thereof; or

(c) of any defect or irregularity in such act or proceeding not affecting the merits of the case.

**11. Function of Board.** — The functions of the Board shall be the administration of the Fund and such other functions as may be assigned by or under this Act.

**12. Unpaid accumulations and claims thereto.** —

(1) All unpaid accumulations shall be deemed to be abandoned property.

(2) Any unpaid accumulation paid to the Board in accordance with the provisions of section 3 shall on such payment, discharge an employer of his liability to make payment to an employee in respect thereof, but to the extent only of the amount paid to the Board, and the liability to make payment to the employee to the extent aforesaid shall, subject to the succeeding provisions of this section, be deemed to be transferred to the Board. This, however, shall not include the amount consisting of employers and employees' share of Provident Fund including the interest thereon but remaining unpaid.

(3) As soon as possible after the payment of any unpaid accumulation is made to the Board, the Board shall by notice —

(a) exhibit on the notice-board of the establishment in which the unpaid accumulation was earned; and

(b) publish in the Government Gazette, and in such other manner as may be prescribed, regard being had to the amount of the unpaid accumulation; invite claims by employees, their heirs, legal representatives or assigns for any payment due to them. The notice shall be given in the manner aforesaid in June and December of every year, for a period of three years from the date of the payment of the unpaid accumulation to the Board.

(4) If any question arises whether the notice referred to in sub-section (3) was given, as required by that sub-section, a certificate of the Board that it was given, shall be conclusive.

(5) If a claim is received whether in response to the notices or otherwise, within a period of four years from the date of first publication of the notice in respect of such claim, the Board shall transfer such claim, to the Authority appointed under section 15 of the Payment of Wages Act, 1936 (Central Act 4 of 1936), having jurisdiction over the area in which the establishment is situated, and that Authority shall proceed to adjudicate upon, and decide, such claim. In hearing such claim, the Authority shall have the powers conferred by that Act, and follow the procedure (in so far as it is applicable), specified therein.

(6) If the Authority aforesaid is satisfied that any such claim is valid so that the right to receive payment is established, it shall decide that the unpaid accumulation in relation to which the claim is made shall cease to be deemed to be abandoned property, and shall order the Board to pay the whole of the dues claimed, or such part thereof as in the opinion of the Authority are properly due, to the employee; and the Board shall make payment accordingly:

Provided that, the Board shall not be liable to pay any sum in excess of that paid under sub-section (1) of section 3 to the Board as unpaid accumulation in respect of the claim.

(7) If a claim for payment is refused, the employee or his heirs, legal representatives or assigns, as the case may be, may within sixty days from the date of receipt of the order of the Authority prefer an appeal to the District Court.

(8) The decisions of the Authority, subject to appeal aforesaid, and the decision in appeal of the District Court, shall be final and conclusive as to the right to receive payment, the liability of the Board and also as to the amount if any.

(9) If no claim is received within the period specified in sub-section (5), or a claim has been duly refused by the Authority or on appeal by the District Court, then the unpaid accumulation in respect of such claim shall accrue to, and vest in the Government as *bona vacantia* and shall thereafter, be deemed to have been transferred to, and form part of the Fund.

**13. Interest on unpaid accumulations or fine after notice of demand.** — (1) If an employer does not pay, to the Board any amount of unpaid accumulation or fines realised from the employees, within the time specified by or under this Act, the Secretary may serve or cause to be served a notice on such employer to pay the amount within the period specified therein which shall not be less than thirty days from the date of service of such notice.

(2) If the employer fails, without sufficient cause, to pay any such amount within the period specified in the notice, he shall, in addition to the amount, pay by way of penalty to the Board simple interest —

(a) for the first three months at two percent of the said amount for each complete month or part thereof after the last date by which he should have paid it according to the notice; and

(b) for each complete month or part thereof thereafter at four and a half percent of that amount during the time he continues to make default in the payment of that amount:

Provided that, the Secretary may subject to such conditions as may be prescribed, remit the whole or any part of the penalty in respect of any period.

(3) The Board shall have the powers to enhance the rate of interest mentioned in sub-section (2) above, subject to the conditions that such rate of interest shall in no case exceed the prevailing Bank rate of interest by more than 1%.

14. Contribution to fund by employees and employer.—(1) Every employee shall contribute six rupees per year to the Fund and every employer shall in respect of each such employee, contribute twelve rupees per year to the Fund.

(2) Notwithstanding anything contained in any other law for the time being in force, but subject to the provisions of this Act and any rules made thereunder, the employer shall be entitled to recover from the employee the employee's contribution by deduction from his wages in such manner as may be prescribed and such deduction shall be deemed to be a deduction authorised by or under the Payment of Wages Act, 1936 (Central Act 4 of 1936).

15. Grants and advances by Government.—The Government may, from time to time, make grants or advance loans to the Board for the purposes of this Act on such terms and conditions as the Government may, in each case, determine.

16. Vesting and application of Fund.—(1) The Fund shall vest in and be held and applied by the Board as trustees subject to the provisions and for the purposes of this Act. The money therein shall be utilised by the Board to defray the cost of carrying out measures which may be specified by the Government from time to time to promote the welfare of employees and their dependents.

(2) Without prejudice to the generality of the provisions of sub-section (1), the money in the Fund may be utilised by the Board to defray expenditure on the following, namely:—

- (a) community and special education centres, including reading rooms and Libraries;
- (b) vocational trainings;
- (c) games and sports;
- (d) excursions and tours;
- (e) community necessities;
- (f) entertainment and other forms of recreation;
- (g) convalescent homes for tuberculosis patients;
- (h) holiday homes in health resorts;
- (i) home industries and subsidiary occupations for women and unemployed;
- (j) part-time employment for housewives of employees;
- (k) pre-schools, nurseries and creches for employees;
- (l) nutritious food to children of employees;
- (m) employment opportunities to the disabled employees;
- (n) cost of administering this Act including the salaries and allowances of the staff appointed for the purposes of this Act; and
- (o) such other objects as would, in the opinion of the Board, improve the standard of living and ameliorate the social conditions of labour;
- (p) accident and occupational diseases;

Provided that the Fund shall not be utilised in financing any measure which the employer is required under any law for the time being in force to carry out:

Provided further that the fines shall be expended by the Board under this Act notwithstanding anything contained in the Payment of Wages Act, 1936 (Central Act 4 of 1936) or any other law or agreement for the time being in force.

(3) The Board may, with the approval of the Government, make a grant from the Fund to any local authority or any other body in aid of any activity for the welfare of employees.

(4) If any question arises whether any particular expenditure is or is not debitible to the Fund, the matter shall be referred to the Government whose decision thereon shall be final.

(5) The Board may accept the transfer of any Labour Welfare Fund or similar fund of any establishment and may continue any activity financed from such Fund, if the said Fund is duly transferred to the Board.

17. Power of Board to borrow.—The Board may from time to time, with the previous sanction of the Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf, borrow any sum required for the purposes of this Act.

18. Deposit of fund and placing of accounts and audit report before State Legislature.—(1) All moneys and receipts forming part of the Fund shall be deposited in the State Bank of India or any corresponding new Bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970) or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (Central Act 40 of 1980) and such account shall be operated upon by such officers of the Board as may be authorised by the Board and in such manner, as may be prescribed.

(2) The accounts of the Board, as certified by the auditor, together with the audit report thereon shall be forwarded yearly to the Government and the Government may issue such instructions to the Board in respect thereof as they deem fit and the Board shall comply with such instructions.

(3) The Government shall—

(a) cause the accounts of the Board together with the audit report thereon forwarded to them under sub-section (2) to be laid yearly before the Legislature; and

(b) cause the accounts of the Board to be published in the prescribed manner and make available copies thereof for sale at a reasonable price.

19. Power of Government to give directions to Board.—The Government may give the Board such directions as in their opinion are necessary or expedient in connection with expenditure from the Fund or for carrying out the purposes of the Act and it shall be the duty of the Board to comply with such directions.

**20. Appointment and power of Secretary.**—(1) The Government shall appoint a Secretary, who shall be the Chief Executive Officer of the Board. He shall have the status of a Deputy Labour Commissioner, (Class I—Gazetted).

(2) It shall be the duty of the Secretary to ensure that the provisions of this Act and the rules made thereunder are duly carried out and for this purpose he shall have the power to issue such orders not inconsistent with the provisions of this Act and the rules made thereunder as he deems fit including any order implementing the decisions taken by the Board under this Act or the rules made thereunder.

**21. Inspectors.**—(1) The Government may by notification appoint such persons as it thinks fit to be Inspectors for the purposes of this Act, and may define the local limits within which and the class of establishments in respect of which they shall exercise their functions.

(2) Subject to any rules made in this behalf, an Inspector, within the local limits for which he is appointed, shall have powers—

(a) to make such examinations and hold such inquiry as may be necessary for ascertaining whether the provisions of this Act have been and are being complied with;

(b) with such assistance, if any, as he thinks fit, to enter, inspect and search any premises of any factory, industrial or commercial establishment or any farm (agriculture or otherwise) at any reasonable time for the purpose of carrying out the objects of this Act;

(c) to require by a written order the production at such place, as may be prescribed, of any register or record maintained in pursuance of this Act and to record on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act;

(d) to seize or take copies of such registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by an employer;

(e) exercise such other powers as may be prescribed.

(3) The provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) shall, so far as may be, apply to any search or seizure under this sub-section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

**22. Appointment of clerical and other staff by Board.**—The Board shall have power to appoint the necessary clerical and executive staff as it considers necessary for the efficient performance of its functions:

Provided that the expenses of the staff so appointed and other administrative expenses shall not exceed such percentage of the annual income of the Fund as may be prescribed.

**23. Powers of Government to call for records.**—The Government or any officer authorised by the

Government may call for the records of the Board, inspect the same and may supervise the working of the Board.

**24. Mode of recovery of sums payable to Board.**—Any sum payable to the Board or into the Fund under this Act shall, without prejudice to any other mode of recovery, be recoverable on behalf of the Board as arrears of land revenue under the Goa, Daman and Diu Land Revenue Code, 1968 (9 of 1969).

**25. Power to supervise welfare activities.**—In regard to any money set apart in any establishment specifically for the purpose of promoting the welfare of the employees in such establishment, the Board shall have powers—

- (i) to require the production of any document in possession of the employers of the establishment in connection with such money to satisfy itself as to such money is being applied for such purpose;
- (ii) to call for any information from such employers of the establishment as it may deem relevant; and
- (iii) to issue such directions to the employers of such establishment as it may deem fit for the purpose of utilising the fund for promoting the welfare of the employees.

**26. Penalty for non-compliance with direction.**—Any person who wilfully fails to produce any document required by the Board or to furnish any information called for by the Board or wilfully fails to comply with any directions issued by the Board under section 25, shall, on conviction be punished—

(a) for the first offence, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and

(b) for a second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the court, in any case where the offender is sentenced to fine only, the amount of fine shall not be less than hundred rupees.

**27. Penalty for obstructing inspection or for failure to produce documents, etc.**—Any person who wilfully obstructs an Inspector in the exercise of his powers or discharge of his duties under this Act or fails to produce for inspection on demand by an Inspector any registers, record or other documents maintained in pursuance of the provisions of this Act or the rules made thereunder or to supply to him on demand true copies of any such document, shall, on conviction, be punished—

(a) for the first offence, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and

(b) for a second or subsequent offence, with imprisonment for a term which may extend to

six months or with fine which may extend to one thousand rupees, or with both:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the court, in any case where the offender is sentenced to fine only, the amount of fine shall not be less than hundred rupees.

**28. Offences by companies.** — (1) If the person committing an offence under this Act is 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 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 provided in this Act, if he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the offence.

(2) Notwithstanding anything contained in sub-section (1) where an 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 officer shall also 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 a 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.

**29. General provision for punishment for offences.** — Any employer who contravenes any provision of this Act or of any rule or order made thereunder shall, if no other penalty is provided separately under this Act, be punishable with imprisonment which may extend to six months or with a fine which may extend to one thousand rupees or with both.

**30. Cognizance of offences.** — (1) No Court shall take cognizance of any offence punishable under this Act except on a complaint made by, or with the previous sanction in writing of the Secretary.

(2) No Court inferior to that of Magistrate of the First Class shall try offence punishable by or under this Act.

**31. Annual report.** — The Board shall as soon as may be after the end of each year prepare and submit to the Government before such date and in such form as may be prescribed, a report giving an account of the activities, if any, which are likely to be undertaken by the Board in the next year, and the Government shall cause every report to be laid before the Legislature as soon as may be after it is received by the Government.

**32. Supersession of Board.** — (1) If the Government is of the opinion that the Board is unable to

perform, or has persistently made default in the performance of the duties imposed on it by or under this Act or has exceeded or abused its powers, the Government may, by notification in the Official Gazette, supersede the Board for a period not exceeding six months as may be specified in the notification:

Provided that before issuing a notification under this sub-section, the Government shall by notice require the Board to show cause within such period as may be specified in the notice as to why it should not be superseded and shall consider the explanation and objection if any, of the Board.

(2) Every such notification issued as per sub-section (1) shall be laid before the Legislature while it is in session for the first time after the issue of notification.

(3) Upon the publication of a notification under sub-section (1) superseding the Board —

(a) the Chairman and all the members of the Board shall as from the date of supersession, vacate their offices as such;

(b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Board and the Chairman shall during the period of supersession be exercised and performed by such Authority or persons as the Government may direct;

(c) all funds and other property vested in the Board shall, during the period of supersession, vest in the authority or person referred to in clause (b); and

(d) all liabilities, legally subsisting and enforceable against the Board shall be enforceable against the authority or person referred to in clause (b) to the extent the Funds and property vest in it or him.

(4) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government may, —

(a) extend the period of supersession for such further period not exceeding six months as they may consider necessary, or

(b) reconstitute the Board in the manner provided in section 5.

**33. Delegation of powers.** — (1) The Government may by notification, authorise any authority or officer to exercise any of the powers vested in them or under this Act except the power to make rules under section 37 and may in like manner withdraw such authority.

(2) The Board may, by general or special order in writing, delegate to the Secretary or other officer of the Board such of its powers and functions under this Act except the power to make regulations under section 38 as it may deem necessary and it may in like manner withdraw such authority.

(3) The exercise of any power delegated under sub-section (1) or sub-section (2) shall be subject to such restrictions and conditions as may be spe-

cified in the order, and also to the control and revision of the Government or by officer as may be empowered by the Government in this behalf.

(4) The Government or the Board, as the case may be, shall also have the power to control and revise the acts and proceedings of any officer so empowered.

**34. Members of Board, Secretary, Inspectors and all officers and servants of Board to be public servants.**—The members of the Board, the Secretary, Inspector and all officers and servants of the Board, and any person entrusted with the execution of any function under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

**35. Protection of action taken in good faith.**—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

**36. Exemption.**—The Government may, by notification exempt any establishment or class of establishments from all or any of the provisions of this Act subject to such conditions as may be specified in the notification.

**37. Power to make rules.**—(1) The Government may by notification in the Official Gazette and subject to the condition of previous publications, make rules to carry out the purposes of the 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) all matters expressly required or allowed by this Act to be prescribed;
- (b) the intervals at which or the period during which any of the sums referred to in section 3 shall be paid to the Board or into the Fund, the manner of making such payment and the agency for, and manner of, collection of any such sum;
- (c) the manner in which the accounts of the Fund shall be maintained and audited;
- (d) the allowances, if any, payable to the members of the Board;
- (e) the manner in which the employee's contribution may be deducted from his wages;
- (f) the form of notice regarding unpaid accumulations;
- (g) the procedure for making grants from the Fund;
- (h) the procedure for defraying the expenditure incurred in administering the Fund;
- (i) the manner in which the Board shall conduct their business;
- (j) the duties and powers of the Secretary and the Inspectors;

(k) the conditions of service of the Secretary and Inspectors and other staff appointed by the Board or Government;

(l) the delegation of the powers and functions of the Board to the Secretary and the conditions and limitations subject to which the powers may be exercised or functions performed;

(m) the percentage of the annual income of the Fund beyond which the Board may not spend on the staff and on other administrative members;

(n) the registers and records to be maintained and returns to be sent by employers;

(o) the publication of the report of the activities financed from the Fund together with a statement of receipts and expenditure of the Fund and statement of accounts.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with a fine which may extend to five hundred rupees.

(4) Every rule made or notification issued under this Act shall, as soon as possible after it is made or issued shall be placed on the table of Legislature and if, before the expiry of the session in which it is so placed, the House agrees in making any modification in any such rule or notification or the House agrees that such rule or notification should not be made or issued, the rule or notification 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 or notification.

**38. Powers to make regulations.**—(1) The Board may, by notification, make regulations not inconsistent with this Act, and the rules made thereunder for the purposes of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

- (a) all matters expressly required or allowed by this Act to be prescribed by regulations;
- (b) the terms and the conditions of appointment and service and the scale of pay of officers and servants of the Board including the payment of travelling and daily allowances in respect of journeys undertaken by such officers and servants of the Board;
- (c) the supervision and control over the acts and proceedings of the officers and servants of the Board and the maintenance of discipline and conduct among the officers and servants of the Board;
- (d) the procedure in regard to the transaction of business at the meetings of the Board including the quorum;
- (e) the purposes for which and the manner in which temporary association of persons may be made;
- (f) the duties, functions, terms and conditions of service of the members of the committees;

(g) the manner and the form relating to the maintenance of the accounts of the Board;

(h) registers and records to be maintained by the Board or its officers and servants including the register to be kept separately on account of unpaid accumulations.

(3) No regulation or its cancellation or modification shall have effect until the same shall have been approved by the Government.

(4) The Government may by notification, rescind any regulation made under this section and thereupon, the regulation shall cease to have effect.

**39. Amendment of Section 8 of Central Act IV of 1936.**—In section 8 of the Payment of Wages Act, 1936 (Central Act 4 of 1936), in sub-section (8), in the last sentence, the following shall be added at the end, namely:—

“but in the case of any establishment to which the Goa, Daman and Diu Labour Welfare Fund Act, 1986 applies, all such realisations shall be paid into the Fund constituted under the aforesaid Act.”

**40. Amendment of section 8 of Central Act 8 of 1923.**—To sub-section (4) of section 8 of the Workmen's Compensation Act, 1923 (Central Act 8 of 1923), the following proviso shall be added, namely:—

“Provided that in respect of a workman belonging to an establishment to which the Goa, Daman and Diu Labour Welfare Fund Act, 1986 applies, the Commissioner, shall pay the said balance of the money into the fund constituted under that Act in lieu of repaying to the employer.”

**41. Realisation of fines and remittance thereof.**—All fines recovered from the wages of an employee under the respective conditions of services in an establishment shall be recorded in a register, as may be prescribed, to be kept by the persons responsible for payment of wages to such employee and all such recoveries shall be credited to the Labour Welfare Fund constituted under section 3 in the manner prescribed.

**42. Authority to decide certain question.**—(1) If any question arises whether or not any of the provisions of this Act apply to an establishment or to an employee therein, it would be decided by such authority as may be prescribed.

(2) The decision of such authority shall be final and shall not be liable to be questioned in any court of law.

**43. Powers to remove difficulties.**—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions or give such directions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this sub-section after the expiry of two years from the commencement of this Act.

(2) Any order made under this section shall have effect notwithstanding anything inconsistent therewith in any rules or regulations made under this Act.

Secretariat,  
Panaji - Goa.  
Dated 14-4-1987.

(M. RAGHU CHANDER)  
Secretary to the Government of Goa,  
Daman and Diu  
Law Department (Legal Affairs)

### Addendum

The Futwah-Islampur Light Railway Line (Nationalisation) Act, 1985 mentioned in the Notification No. LD/1/9/85-(D), Part-file dated 16-4-1986 published at page 755 of the Official Gazette Series I No. 52 dt. 26-3-87, which was not published in the same, is reproduced below.

### The Futwah-Islampur Light Railway Line (Nationalisation) Act, 1985

AN

ACT

*to provide for the acquisition, in the public interest, of the undertakings of the Futwah-Islampur Light Railway Company Limited in relation to the Futwah-Islampur Light Railway Line and for matters connected therewith or incidental thereto.*

Whereas the track and rolling stock of the Futwah-Islampur Light Railway Line owned by the Futwah-Islampur Light Railway Company Limited are in a dilapidated condition;

And Whereas the running of trains on the aforesaid line besides being hazardous and uneconomical, is also resulting in heavy loss to the Central Government;

And Whereas the aforesaid Company is not in a position to make the assets serviceable for public use;

And Whereas it is necessary in the public interest to acquire the undertakings of the said Company in relation to the said railway line;

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

### CHAPTER I

#### Preliminary

**1. Short title.**—This Act may be called the Futwah-Islampur Light Railway Line (Nationalisation) Act, 1985.

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

(a) “appointed day” means the day on which this Act comes into force;

(b) “Company” means the Futwah-Islampur Light Railway Company Limited, being a company as defined in the Companies Act, 1956 and having

its registered office at 12, Mission Row, Calcutta;

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

(d) "undertakings", in relation to the Company, means the Futwah-Islampur Light Railway Line and all other undertakings of that Company relating to that Railway Line;

(e) words and expressions used herein and not defined but defined in the Companies Act, 1956 shall have the meanings respectively assigned to them in that Act.

1 of 1956.

## CHAPTER II

### Acquisition of the Undertakings of the Company

3. *Transfer to, and vesting in, the Central Government of the undertakings of the Company.*—On the appointed day, the undertakings of the Company and the right, title and interest of the Company in relation to such undertakings shall, by virtue of this Act, stand transferred to, and vest in, the Central Government.

4. *General effect of vesting.*—(1) The undertakings of the Company shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and immoveable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, cheques, demand drafts, reserve funds, investments, 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 Company, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

(2) All properties as aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting them, and any attachment, injunction, decree or order of any court, tribunal or other authority restricting the use of such properties in any manner or appointing any receiver in respect of the whole or any part of such properties shall be deemed to have been withdrawn.

(3) For the removal of doubts, 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 amounts payable under sections 6 and 7 to the Company, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(4) Any licence or other instrument granted to the Company in relation to any undertaking which has vested in the Central Government under section 3 at any time before the appointed day and in force immediately before that day shall continue to

be in force on and after such day in accordance with its tenor in relation to and for the purposes of such undertaking, and, on and from the date of vesting of such undertaking under section 3 in the Central Government, that Government shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to that Government and that Government shall hold it for the remainder of the period for which the Company would have held it under the terms thereof.

5. *Owners of the Company to be liable for certain prior liabilities.*—(1) Every liability of the Company in respect of any period prior to the appointed day, shall be the liability of the Company and shall be enforceable against it and not against the Central Government.

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

(a) no liability of the Company in relation to its undertakings in respect of any period prior to the appointed day, shall be enforceable against the Central Government;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of the Company passed on or after the appointed day, in respect of any matter, claim or dispute, which arose before that day, shall be enforceable against the Central Government;

(c) no liability incurred by the Company before the appointed day, for the contravention of any provision of any law for the time being in force, shall be enforceable against the Central Government.

## CHAPTER III

### Payment of Amount

6. *Payment of amount.*—(1) For the transfer to, and vesting in, the Central Government, under section 3, of the right, title and interest of the Company in relation to its undertakings, there should be paid in cash by the Central Government, before the expiry of a period of three months from the appointed day to the Company, an amount equal to a sum of nineteen lakhs twenty-nine thousand five hundred and forty-two rupees.

(2) Notwithstanding anything contained in sub-section (1), out of the amount referred to in that sub-section, the Central Government shall deduct, in the first instance, any amount due from the Company to that Government and the State Bank of Travancore constituted under section 3 of the State Bank of India (Subsidiary Banks) Act, 1959 and the liability of that Company shall, to the extent of such deductions, stand discharged and such deductions shall have priority over all other debts, secured or unsecured.

38 of 1959.

7. *Interest.*—The amount referred to in sub-section (1) of section 6 as reduced by the deductions under sub-section (2) of that section shall, if not paid to the Company before the expiry of the period specified in the said sub-section (1), carry simple interest at the rate of four per cent, per annum for

the period commencing on the appointed day and ending on the date on which payment of such amount as so reduced is made by the Central Government to the Company:

Provided that if the amount as so reduced is tendered to the Company but not accepted by it, no interest shall run from the date of such tender.

#### CHAPTER IV

##### Duty of persons in charge of management of the undertakings of the Company to deliver all assets, etc.

8. *Duty of persons in charge of management of the undertakings of the Company to deliver all assets, etc.* — On the vesting of the undertakings of the Company in the Central Government, all persons in charge of the management of the undertakings immediately before such vesting, shall be bound to deliver to the Central Government all assets, books of account, registers or other documents in their custody relating to the undertaking.

9. *Duty of persons to account for assets etc., in their possession.* — (1) Any person who has, on the appointed day, in his possession or under his control, any assets, books, documents or other papers relating to the undertakings owned by the Company which have vested in the Central Government and which belong to the Company, or would have so belonged, if the undertakings owned by the Company had not vested in the Central Government, shall be liable to account for the said assets, books, documents and other papers to the Central Government and shall deliver them up to the Central Government or to such person or persons as the Central Government may specify in this behalf.

(2) The Central Government may take or cause to be taken all necessary steps for securing possession of the undertakings of the Company which have vested in the Central Government under this Act.

(3) The Company shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all its properties and assets, as on the appointed day, pertaining to the undertakings which have vested in the Central Government under section 3 and, for this purpose, the Central Government shall afford to the Company all reasonable facilities.

#### CHAPTER V

##### Provisions relating to employees of the undertakings of the Company

10. *Employment of certain employees to continue.* — (1) Every person who has been, immediately before the appointed day, employed in any of the undertakings of the Company shall become, on and from the appointed day, an employee of the Central Government and shall hold office or service under the Central Government with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government:

Provided that unless any extension of service is granted to such person after the appointed day in accordance with the rules in that behalf in force for the time being, such person shall retire compulsorily from the service of the Central Government,—

(a) where he has attained or attains the age of fifty-eight years before, or on, or within a period of three months from, the appointed day, on the date of expiry of the said period of three months, or on the date on which he shall retire compulsorily from service in accordance with the conditions of service applicable to him immediately before the appointd day, whichever date is earlier;

(b) in any other case, on his attaining the age of fifty-eight years.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947,

14 of 1947.

or in any other law for the time being in force, the transfer of the service of any officer or other person employed in any undertaking of the Company to the Central Government shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

11. *Provident fund and other funds.* — (1) Where the Company has established a provident fund, superannuation fund, welfare fund or any other fund for the benefit of the persons employed in any of the undertakings of the Company, the monies relatable to the officers or other employees whose services have become transferred, by or under this Act, to the Central Government, shall, out of the monies standing, on the appointed day, to the credit of such provident fund, superannuation fund, welfare fund or other fund, stand transferred to, and shall vest in, the Central Government.

(2) The monies which stand transferred under sub-section (1) to the Central Government shall be dealt with by that Government in such manner as may be prescribed by rules.

#### CHAPTER VI

##### Miscellaneous

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

13. *Penalties.* — Any person who,—

(a) having in his possession, custody or control any property forming part of the undertakings of the Company, wrongfully withholds such property from the Central Government; or

(b) wrongfully obtains possession of, or retains any property forming part of the undertakings of the Company; or

(c) wilfully withholds or fails to furnish to the Central Government or any person or persons specified by that Government any document relating to such undertakings, which may be in his possession, custody or control; or

(d) fails to deliver to the Central Government or any person or persons specified by that Government, any assets, books of account, registers or other documents in his possession, custody or control, relating to the undertakings of the Company; or

(e) wrongfully removes or destroys any property forming part of the undertakings of the Company or prefers any claim which he knows or has reason 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.

14. *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 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.

15. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer

or other employee of that Government or any officer or other person authorised by that Government for 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 Central Government or any officer or other employee of that Government or any officer or other person authorised by that Government 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.

16. *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 the powers conferred by this section and sections 17 and 18, may also be exercised by such person or persons as may be specified in the said 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.

17. *Power to make rules.*—(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide the manner in which the monies in any provident fund or other fund under section 11 shall be dealt with.

(3) Every rule made by the Central Government under this Act 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 both Houses agree 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 Central 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 appointed day.